

CENTRAL BANK OF THE GAMBIA ACT, 2005

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CERTIFICATION THAT CURRENCY IS AN IMITATION

Supplement "C" to The Gambia Gazette No. of _____, 2005
Central Bank of The Gambia Act, 2005



THE GAMBIA

NO. 14 OF 2005

Assented to by The President,

this 20th day of January, 2005

YAHYA A. J. J. JAMMEH
President

AN ACT to amend and consolidate the law relating to the Central Bank of The Gambia and to provide for related matters.

[See section 1]

ENACTED by the President and the National Assembly.

PART 1 - PRELIMINARY

Short title and commencement

1. This Act may be cited as the Central Bank of The Gambia Act, 2005 and comes into force on such date as the Secretary of State may, by Order published in the *Gazette*, appoint.

Interpretation

2. In this Act, unless the context otherwise requires-

"Auditor-General" includes an auditor appointed by the Auditor-General;

"bank" has the meaning given to it in the Financial Institution Act, 2003;

2003 No.8

"Bank" means the Central Bank of The Gambia established under section 161 of the Constitution;

"Board" means the Board of Directors specified under section 10;

"Constitution" means the Constitution of the Republic of The Gambia;

"Department of State" means the Department of State responsible for finance and economic affairs;

"financial institution" means an entity which may be either a depository financial institution such as a commercial bank, savings and loans company, mutual savings company, credit union or a non-depository financial institution such as a brokerage firm, insurance company, pension fund, investment company, which carries on the business of or part of whose business is any of the following activities-

- (a) taking of deposits of money from the public repayable on demand and withdrawals by cheques, draft, orders or by other means;

- (b) financing of any activity by way of creating financial assets such as loans and advances, securities, bank deposits or otherwise, other than its own;
- (c) dealing in shares, stocks, bonds or other securities;
- (d) leasing, letting or delivering goods to a hirer under a hire purchase agreement;
- (e) carrying on by insurance companies of any business other than insurance;
- (f) collecting of money or accepting employer contributions and paying it out for legitimate claims or for retirement benefits;

"financial system" means a network of deposit-taking and non-deposit-taking financial institutions and entities providing financial services to the public;

"foreign exchange" means-

- (a) currency notes, bank notes or coins, other than the currency or coin of The Gambia, which is legal tender in any other country and are convertible into currency which is legal tender in any other country;
- (b) bills of exchange, travellers cheques, convertible currency, foreign government treasury bills, securities and bonds, promissory notes and balances

than in the currency of The Gambia

"foreign institution" means a banking or financial institution of a foreign government or agency or an institution acting on behalf of a foreign government, a bank or financial institution;

"Government" means the Government of The Gambia;

"liquid assets" means the cash in till, vault cash, balances deposited with the Bank and such other assets as the Bank may determine;

"member" means a Director of the Board;

"non-banking financial institution" means a financial institution other than a bank;

"prescribed" means prescribed by regulations made under section 75.

"Secretary of State" means the Secretary of State responsible for finance and economic affairs;

"settlement system" means an arrangement by which action is taken to discharge an obligation in respect of funds or security transfers between two or more parties.

PART II – ESTABLISHMENT, OBJECTIVE AND FUNCTIONS OF THE BANK

3. (1) The Central Bank of The Gambia established under the Constitution shall carry on business in accordance with the Constitution and the provisions of this Act.

Establishment
of the Central
Bank

(2) The Bank-

- (a) is a body corporate having perpetual succession and a common seal;
- (b) may sue and be sued in its corporate name; and
- (c) has power to enter into contracts and acquire, hold, and dispose of property whether movable or immovable.

(3) The application of the common seal of the Bank shall be authenticated-

- (a) by the Governor, and
- (b) in the absence of the Governor, by a Deputy Governor and two directors,

all of whom shall certify the validity of the authentication, and that authentication shall be independent of the signing by another person who may sign the instrument as a witness.

Head office and
branches of the
Bank

4. (1) The head office of the Bank shall be in Banjul.

(2) The Bank may, where it considers it necessary for the performance of its functions, open branches and have agencies or agents in and outside The Gambia

Objects of the
Bank

5. (1) The primary objects of the Bank are to-

- (a) achieve and maintain price stability;
- (b) promote and maintain the stability of the currency of The Gambia;

(c) direct and regulate the financial, insurance, banking and currency system in the interest of the economic development of The Gambia; and

(d) encourage and promote sustainable economic development and the efficient utilisation of the resources of The Gambia through the effective and efficient operation of a financial system.

(2) Without prejudice to subsection (1), the Bank shall support the general economic policy of the Government and promote economic growth and effective and efficient operation of a financial system in The Gambia, subject to the direction of the Secretary of State.

6. (1) The Bank shall, for the purposes of section 5, perform the following functions-

(a) formulate and implement monetary policy aimed at achieving the objects of the Bank;

(b) promote by monetary measures the stabilization of the value of the currency within and outside The Gambia;

(c) institute measures which are likely to have a favourable effect on the balance of payments, the state of public finances and the general development of the national economy;

(d) licence, regulate, supervise and direct the financial system and ensure the smooth operation of the financial system;

(e) promote, regulate and supervise payment and settlement systems;

(f) issue and redeem the currency notes and coins of The Gambia;

(g) ensure effective maintenance and management of The Gambia's external reserves;

(h) license, regulate, and supervise non-banking financial institutions;

(i) act as banker and financial adviser to the Government and guarantee Government loans;

(j) promote and maintain relations with international banking and financial institutions and subject to the Constitution or any other relevant enactment, implement international monetary agreements to which The Gambia is a party;

(k) own, hold and manage its official international reserves;

(l) promote the safe and sound development of the financial system including safeguarding the interest of depositors;

(m) collect, analyse and publish statistical data; and

(n) do all other things that are incidental and conducive to the efficient performance of its functions under this Act.

(2) The Board may by instrument in the Gazette, authorise any person to exercise the power of the Bank to regulate and supervise non-banking financial institutions.

(3) An instrument issued under subsection (2) may include provision relating to-

- (a) inspection;
- (b) management audit; and
- (c) any other aspect of operation of non-banking financial institution.

(4) An instrument issued under subsection (2) shall be under the signature of the Governor.

PART III - CAPITAL, PROFIT AND RESERVES

Authorised share capital

7. (1) The authorized share capital of the Bank is one hundred million dalasis and shall not be altered except by amendment to this Act.

(2) The Board shall, with the approval of the Secretary of State, determine the minimum paid-up capital of the Bank.

(3) The paid-up capital shall be subscribed and held exclusively by the Government.

(4) The Government shall pay up such amount as the Board may, in consultation with the Secretary of State, determine.

(5) The Secretary of State may by warrant authorise the payment from the Consolidated Fund of such sums as may be required for the purpose of subscribing to the paid-up capital of the Bank.

(6) Without prejudice to the provisions of subsections (3) and (4), the Secretary of State may seek credit for the purpose of subscribing to the paid-up capital of the Bank.

(7) Where, in the opinion of the Board, the assets of the Bank are less than the sum of its liabilities and minimum paid-up capital, the Board shall notify the Secretary of State.

(8) Notwithstanding any other provision of this Act, the Secretary of State shall, on receiving a notification under subsection (7), authorise the transfer to the Bank of funds, readily marketable securities or foreign exchange for the purpose of preserving the minimum paid-up capital of the Bank from impairment.

Profit and General Reserves

8. (1) The Board shall determine the net profits of the Bank for each financial year after making provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and for all other matters for which provision is made by or under this Act.

(2) The Bank shall establish a General Reserve to which shall be allocated at the end of each financial year of the Bank in the case of any year at the end of which the General Reserve of the Bank-

(a) does not exceed the minimum paid-up capital of the Bank, one-third of the net profits of the Bank for the financial year; or

(b) exceeds the minimum paid-up capital of the Bank but does not exceed four times the paid-up capital of the Bank, one sixth of the net profits of the Bank for the financial year.

(3) After appropriate allocations have been made to the General Reserve under subsection (2), one-quarter of the remainder of the net profits for the financial year shall be applied to the redemption of any securities of the Government held by the Bank, which have been issued under section 7.

(4) Further allocation may, with the approval of the Secretary of State, be made, from time to time, to the General Reserve to increase it beyond four times the minimum paid-up capital of the Bank.

(5) The residue of the net annual profits for the financial year shall, after all deductions authorised by subsections (2), (3) and (4) and section 9 have been made, be paid into the Consolidated Fund within six months after the end of each financial year.

(6) A deduction authorised under subsections (2), (3) and (4) shall not be required to be made and a payment shall not be made under subsection (5) if, in the opinion of the Board, the assets of the Bank are, or after the deduction or payment, will be, less than the sum of its liabilities and minimum paid-up capital.

(7) A net loss incurred by the Bank during a financial year shall be charged to the General Reserve Fund, and if the General Reserve Fund is inadequate to cover the entire amount of the loss, the balance of loss shall be carried forward in an account for accumulated losses.

(8) The balance of accumulated losses shall be replenished by Government by transferring to the Bank funds, negotiable securities bearing market related terms and conditions or foreign exchange as specified in section 7 (8).

(9) If in any financial year there are accumulated losses carried forward from previous years which have not yet been replenished by Government in the manner provided in subsection (8), the final profit of that year shall be allocated in priority to the cancellation of such accumulated losses.

(10) The allocations stipulated in subsections (2), (3), (4) and (5) refer only to the balance of profits which remain after the cancellation of accumulated losses carried forward from previous years.

Revaluation
Reserve
Account

9. (1) The profits or losses arising from a revaluation of the Bank's assets or liabilities in gold, special drawing rights or foreign securities as a result of a change in the par value of the dalasi or of any change in the par value of the currency unit of any other country shall be excluded from the computation of the annual profits or losses of the Bank.

(2) The profits and losses arising under subsection (1) shall be carried to a special account to be known as the 'Revaluation Reserve Account'.

(3) Profits shall not be paid into the General Reserve Fund or the Consolidated Fund under section 8 (2) or (3) where the Revaluation Reserve Account shows a net loss, and the profits not paid into the General Reserve Fund shall be credited to the Revaluation Reserve Account in an amount sufficient to cover the loss.

(4) Where the profits referred to under subsection (1) are insufficient to cover the losses of the Bank in a financial year, the Government shall cause to be issued to the Bank redeemable negotiable interest bearing securities to the extent of the deficiency.

(5) A credit balance in the Revaluation Reserve Account at the end of a financial year of the Bank shall be applied to redeem the outstanding securities issued under sub-section (4).

PART IV – ADMINISTRATION OF THE BANK

Sub-Part I – Board of Directors

10. (1) The authority of the Bank shall vest in the Board of Directors which shall comprise-

- (a) a Chairperson, who shall be the Governor of the Bank; and
- (b) four other Directors.

(2) The members of the Board shall be appointed by the President, in consultation with the Public Service Commission, from among persons of standing and experience in financial matters.

11. The Board shall-

- (a) be responsible for the observance of the objects of the Bank and its general administration; and
- (b) formulate policies necessary for the achievement of the objects of the Bank.

Terms and conditions of service of members

12. (1) Subject to the provisions of this section, the members, other than the Chairperson-

- (a) shall be appointed for a term of two years and the appointments shall be made with a view to ensuring that no more than two such Directors' terms of office expire in any one year; and
- (b) are eligible for reappointment for a further term.

(2) The members shall be paid appropriate allowances to be determined by the Board with the approval of the Secretary of State.

Removal from the Board

13. (1) A member may be removed from office by the President if he or she-

- (a) is convicted of an offence involving dishonesty or fraud;
- (b) is declared bankrupt or makes a composition with his or her creditors;
- (c) is unable to perform the functions of his or her office due to infirmity of mind or body or for any other cause; or
- (d) knowingly engages in any activity detrimental to the interests of the Bank.

(2) A member may resign his or her office on giving at least three months notice of his or her intention in writing to the President.

Vacancy on the Board

14. Where a member dies, resigns or is otherwise removed from office before the completion of the term of office, another person shall be appointed-

Board of Directors

Functions of the Board

(4) Where the profits referred to under subsection (1) are insufficient to cover the losses of the Bank in a financial year, the Government shall cause to be issued to the Bank redeemable negotiable interest bearing securities to the extent of the deficiency.

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(2) A member may resign his or her office on giving at least three months notice of his or her intention in writing to the President.

Vacancy on the
Board

14. Where a member dies, resigns or is otherwise removed from office before the completion of the term of office, another person shall be appointed-

- (a) in the case of the Governor, for a period of five years; and
- (b) in the case of any other member, for the unexpired period of that member.

Meetings of the Board

15. (1) The Governor shall summon meetings of the Board as often as may be required but not less than once in every three months.

(2) The Governor shall preside at the meeting of the Board, and in the absence of the Governor, the members shall appoint one of their number to preside.

(3) The quorum for a meeting of the Board shall be three members.

(4) A member who has an interest, whether direct or indirect, in a matter that is being considered or dealt with by the Board shall disclose in writing to the Board the nature of that interest and shall not participate in a discussion or decision of the Board on that matter.

(5) Where a member fails or refuses to disclose his or her interest under subsection (4), the member shall cease to be a member.

(6) A decision of the Board shall be determined by a simple majority of the members present and voting, and where there is an equality of votes on an issue before the Board, the person presiding shall have a casting vote.

(7) The Board may, where it considers it fit, invite a person to assist at its meetings but a person so invited is not entitled to vote at that meeting on a matter for decision by the Board.

(8) The validity of the proceedings of the Board is not affected by a vacancy among its membership or by a defect in the appointment or qualification of any of the members.

(9) An act done by a member acting in good faith as a member is valid, notwithstanding a defect in the appointment or qualification of that member.

(10) Except as otherwise provided in this section, the Board shall regulate its own procedure for its meetings.

Conducting business with the Bank

16. Nothing in this Part shall be construed as prohibiting any member, other than the Governor, from conducting business with the Bank or any other person or authority, provided he or she declares his or her interest in writing to the Board and abstains from participating in any meeting of the Board at which a matter in which he or she has such an interest is a subject for discussion.

Audit Committee

17. (1) The Board shall appoint an Audit Committee which shall consist of three members who shall select one of their number to be the chairperson.

(2) The Audit Committee shall-

(a) establish appropriate accounting procedures and accounting controls for the Bank and supervise compliance with the procedures;

(b) monitor compliance with laws applicable to the Bank and report on them to the

(c) deliver opinions on any matter submitted to it by the Board or Bank management;

(d) receive and examine the external auditor's report and recommend to the Board any appropriate action to be taken; and

(e) review the work of the Internal Audit Department of the Bank.

(3) The Audit Committee shall meet ordinarily once every quarter and extraordinarily when convened by the Board or Bank management.

Committees of the Board

18. Subject to section 17, the Board may appoint such number of committees as are necessary for the purpose of advising the Board.

Sub-Part II – Governor, Deputy Governors and other Staff of the Bank

Appointment, qualification and removal from office of Governor and Deputy Governors

19. (1) There shall be for the Bank, a Governor and two Deputy Governors all of whom shall be persons of recognised financial experience.

(2) The President shall appoint-

(a) the Governor after consultation with the Board and the Public Service Commission; and

(b) the Deputy Governors on the recommendation of the Secretary of State.

(3) The Governor and the Deputy Governors shall be appointed for a term of five years each and shall each be eligible for reappointment.

(4) Subject to the Constitution and this section, the Governor and the Deputy Governors shall be appointed on terms and conditions determined by the President, which shall not be altered to their disadvantage during their tenure of office.

(5) The Board shall designate the Deputy Governors as First Deputy Governor and Second Deputy Governor, respectively.

(6) A person shall not be appointed or remain Governor or Deputy Governor if he or she-

(a) is or becomes a director, an officer, an employee of, owner or shareholder of a financial institution under the regulatory jurisdiction of the Bank; or

(b) subject to subsection (8), is or becomes a salaried employee of the Government.

(7) Except with the approval of the President, the Governor or a Deputy Governor shall not hold any other office of profit or emolument or occupy any other position carrying the right to remuneration for the rendering of services.

(8) The Governor or a Deputy Governor may resign from office on giving notice in writing to the President.

(9) If the President considers that the question of removing the Governor or a Deputy Governor ought to be investigated, the President shall appoint an independent tribunal, the chairman of which shall be a person with judicial experience, to investigate the matter and report to the President.

(10) If the finding of the independent tribunal is that the Governor or Deputy Governor has-

- (a) become permanently incapable of carrying out the duties of office;
- (b) become bankrupt or has suspended payments or has compounded with creditors generally;
- (c) been convicted of a felony or of any offence involving dishonesty;
- (d) been found guilty of serious misconduct in relation to the duties; or
- (e) being a person possessed of professional qualifications, been disqualified or suspended, otherwise than at the person's own request, from practising that profession by the order of a competent authority made in respect of the person personally,

the President shall terminate the appointment of the Governor or Deputy Governor, as the case may be.

20. (1) The Governor -

- (a) is the Chief Executive of the Bank; and
- (b) subject to the directions given by the Board on matters of policy or as expressly provided in this Act-
 - (i) is entrusted with the day-to-day business and administration of the Bank, and
 - (ii) may make decisions and exercise all powers and perform the functions which may be exercised and performed by the Bank.

(2) Without prejudice to subsection (1), the Governor shall-

- (a) execute the policies of the Board;
- (b) make regular reports to the Board on the management and operations of the Bank;
- (c) provide the data, statistics and advice necessary for the attainment of the objects of the Bank; and
- (d) perform any other functions directed by the Board.

21. (1) Where there is an internal disorder, external exigencies, national disaster or critical financial or economic crisis or other exigencies

requiring immediate action and there is insufficient time to call a meeting of the Board, the Governor may, after giving notice to the Secretary of State, exercise the powers of the Board and take necessary action.

(2) The Governor shall, within seven working days after having taken action by virtue of subsection (1), call a meeting of the Board and report the action for ratification or review by the Board.

Functions of the Deputy Governors

22. (1) The Deputy Governors shall assist the Governor in the performance of the functions of the Governor under this Act in such area as the Governor may, in consultation with the Board, determine.

(2) In the absence of the Governor, the First Deputy Governor shall perform the functions of the Governor under this Act and in the absence of both the Governor and the First Deputy Governor, the Second Deputy Governor shall have the authority to perform the functions of the Governor.

Secretary of the Board

23. The Board shall appoint a Secretary who shall -

- (a) maintain a secretariat for the Board and ensure accurate recording of proceedings and decisions of the Board; and
- (b) perform such other functions as the Governor or the Board may direct.

Internal Auditor

24. (1) The Board shall appoint for the Bank an Internal Auditor.

(2) Subject to this Act, the Internal Auditor is responsible to the Governor in the performance of his or her functions.

(3) The Internal Auditor shall-

- (a) at intervals of three months, prepare a report on the internal audit work which he or she carried out during the period of three months immediately preceding the preparation of the report; and
- (b) submit the report to the Governor.

(4) The Governor shall submit to the Board a report received by him or her under subsection (3).

Other officers and employees of the Bank

25. (1) The Board shall appoint such other officers and employees of the Bank as the Board considers necessary for the effective implementation of the functions of the Bank.

(2) Subject to this Act, the officers and employees of the Bank shall hold office or appointment on terms and conditions specified in their letters of appointment.

(3) The salaries, benefits, wages or other remuneration allowances paid by the Bank shall not be computed by reference to the net or other profits of the Bank.

Sub-Part III – Miscellaneous

Signing of documents

26. (1) The Board may empower the Governor, a Deputy Governor or an employee of the Bank in writing generally or in respect of a particular document or class of documents to sign for and on behalf of the Bank the documents or class of documents.

(2) The Governor, Deputy Governor and the employee of the Bank empowered under subsection (1) are hereby severally empowered for and on behalf of the Bank to endorse and transfer promissory notes, stock-receipts, debenture stocks, shares, securities and documents of title to goods standing in the name of, or held by, the Bank.

Declaration of secrecy

27. (1) Members of the Board and employees of the Bank of all classes or designation are bound by a declaration of secrecy in the performance of their duties, unless they are otherwise called upon to give evidence in a court of law or to fulfil an obligation imposed by law.

(2) For the purposes of this section, former members of the Board and former employees of the Bank are similarly bound and shall not disclose any information whether documentary or otherwise relating to the affairs of the Bank except by order of a court or to fulfil an obligation imposed by law.

(3) Notwithstanding the provisions of subsection (1), members of the Board and employees of the Bank may give to a bank supervisor of another country pertinent secret information on suspicious transactions, including information identified during on-site inspections.

(4) A person who contravenes a provision of this section commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dalasis or imprisonment for a term not exceeding two years, or to both the fine and imprisonment.

Liability for loss

28. An officer or employee of the Bank is liable for loss or damage suffered by the Bank as a result of any wilful default or negligence of that officer or employee.

Monetary Policy Committee

29. (1) There is hereby established a committee of the Bank to be known as the Monetary Policy Committee.

(2) The Monetary Policy Committee is responsible for-

- (a) setting the policy interest rate to achieve the objectives of the Bank;
- (b) initiating proposals for the formulation and adoption of monetary policies of the Bank; and
- (c) providing the statistical data and advice necessary for the formulation of monetary policies.

(3) The members of the Monetary Policy Committee are-

- (a) the Governor;
- (b) the Deputy Governors;
- (c) the head of the Economic Research

- (d) the head of banking operations of the Bank;
- (e) the head of the Financial Supervision Department; and
- (f) two other persons appointed by the Secretary of State, being persons with knowledge or experience relevant to the functions of the Monetary Policy Committee.

(4) The members of the Monetary Policy Committee shall be paid such allowances, as the Board shall determine.

PART V – THE BANK AS BANKER AND FISCAL AGENT OF GOVERNMENT AND STATE INSTITUTIONS

Custodian of State funds

30. The Bank shall be the sole custodian of the State funds both in and outside The Gambia, and may, by notice published in the *Gazette*, authorise any other person or institution to act as custodian of any such funds as may be specified in the notice.

The Banker for Government

31. (1) The Bank is the sole banker of the Government and the principal depository bank for all funds raised for, or on behalf of, the Government, and shall receive, collect, pay and remit money, bullion and securities on behalf of the Government.

(2) The Bank shall accept custody of all securities, documents and other valuable objects belonging to the Government.

(3) The Bank may act as banker to any Government institution or agency.

(4) In a place where the Bank does not have a branch, the Bank may appoint a bank to act as its agent for the collection and payment of Government moneys.

(5) An agent who collects money for and on behalf of the Bank under subsection (4) shall, on such terms as may be specified, remit the money to the Bank.

(6) The Bank shall not pay interest on amounts deposited in a Government account.

(7) Except as otherwise determined by agreement with the Secretary of State, the Bank shall not receive from the Government remuneration for its services under this section.

(8) Subject to this section, the Bank may undertake and transact a business, which the Government may entrust to the Bank.

Temporary advances

32. (1) The Bank may make-

- (a) advances and loans to the Government on overdraft or in any other form that the Board may determine;
- (b) direct purchase from the Government of treasury bills or securities representing obligations of the Government.

(2) The total of the loans, advances, purchase of treasury bills and securities together with money borrowed by the Government from the Bank at

the close of a financial year under subsection (1) shall not exceed ten per cent of the tax revenue of the previous fiscal year.

(3) An advance made under subsection (1) shall be repaid within six months after the grant of the advance, and if the advance remains unpaid after the due date, the power of the Bank to make further advances in a subsequent financial year shall not be exercised unless the amounts due in respect of outstanding advances have been repaid.

(4) Where repayments of the advances and overdrafts are unduly delayed, the Bank may transfer the debt to the public through the sale of treasury bills.

(5) The Bank shall charge interest on advances granted under this section at such rate as the Board may determine.

(6) If there is an extreme emergency, the Governor and the Secretary of State shall meet to decide the limit of borrowing that should be made by Government, and the Secretary of State shall submit a report on the issue to the Cabinet at its next sitting.

Management of
the domestic
debt

33. The Bank is entrusted with the issue and management of the domestic debt issued on the terms and conditions that are agreed between the Government and the Bank.

Adviser to
Government on
fiscal matters

34. The Bank shall advise Government on-

- (a) the monetary transactions of the Government and Government agencies; and

- (b) the international and local contracts to which the Government is a party and which relate to the object and functions of the Bank.

Sharing of
information

35. The Bank and the Department of State shall share information relevant for the performance of their respective functions.

Policy
directives

36. (1) If, after consultation between the Secretary of State and the Bank, the Secretary of State is of the opinion that a policy being pursued by the Bank is not adequate for, or conducive to, the achievement of the objects of the Bank set out in section 5(1), the Secretary of State shall inform the Bank of the policy so determined and that Government accepts responsibility for the adoption of the policy.

(2) The Bank shall, on being informed under subsection (1), give effect to that policy while the directive remains in operation.

PART VI - CREDIT CONTROL

Report on
unusual
movement in
supply of
money

37. (1) Where the Governor considers that there are unusual movements in the money supply and prices, detrimental to a balanced growth of the national economy, he or she shall, subject to this Act, make, within fourteen days after becoming aware of the movement, a report of the movement to the Secretary of State specifying the causes which in its opinion led to the situation.

(2) The Bank, in counteracting unusual movements in money supply and prices in The Gambia, shall, after consultation with the Secretary of State-

- (a) use any of the instruments of control conferred on it under this Act; and
- (b) in extreme emergencies, if measures taken under paragraph (a) are not effective, use any of the instruments of control conferred on it under any other enactment,

to maintain and promote a balanced growth of the national economy.

Managing the monetary and banking system

38. Without prejudice to section 36 (2), the Bank may, for the purposes of monetary management -

- (a) alter the minimum ratio of reserve to deposits or the minimum capital adequacy ratio which each banking institution shall maintain;
- (b) alter the discount and interest rates of the Bank to be applied in credit operations with banking institutions;
- (c) buy or sell in the open market commercial bills, government bonds and securities or bonds and securities guaranteed by the Government;
- (d) issue, sell, re-purchase or redeem The Central Bank of The Gambia securities;
- (e) expand or contract credit facilities to the banks;
- (f) authorise a bank that it considers fit to accept deposits for the Government, or order the transfer of Government deposits with any bank;

- (g) impose special requirements on deposit with banks that it may determine; and
- (h) impose such other measures as the Board may determine.

PART VII - CURRENCY

Sole right to issue and redeem currency notes and coins

39. (1) The Bank has the sole right to issue and redeem currency notes and coins in The Gambia.

(2) Notwithstanding any other law, a person who issues or redeems currency notes or coins in contravention of subsection (1) commits an offence and is liable on conviction to a fine of not less than five hundred thousand dalasis or imprisonment for a term not exceeding ten years, or to both the fine and imprisonment.

Cover for notes and coins

40. The Bank shall hold assets to cover the currency notes and coins issued by the Bank.

Unit, denomination and form of currency

41. (1) The unit of currency shall be the dalasi, which shall be divided into one hundred bututs, one butut being one hundredth part of a dalasi.

(2) The Bank shall issue currency notes and coins of the denominations that are approved by the Board in consultation with the Secretary of State.

(3) The currency notes and coins issued by the Bank shall be of the forms and designs that are approved by the Board.

(4) The standard weight and composition of coins issued by the bank and the amount of remedy and variation shall be determined by the Board.

(5) The currency notes and coins issued by the Bank shall be printed or minted by the Bank or under the authority of the Bank.

Appointment of other banks as currency agents

42. The Bank may appoint a bank to act as agent for the issue, re-issue, exchange and withdrawal of currency notes and coins on the terms and conditions that are agreed between the Bank and that bank.

Currency cover assets of the Bank

43. (1) The currency cover assets of the Bank may include-

- (a) gold, gold coin and bullion;
- (b) convertible currency notes and coins and bank balances in convertible currency with a bank outside The Gambia;
- (c) treasury bills of the Government of a country whose currency is convertible;
- (d) bills of exchange bearing at least two good signatures drawn on a place outside The Gambia, payable in convertible currency and having a maturity not exceeding three months, exclusive of days of grace;
- (e) securities of any Government, other than the Government of The Gambia, expressed in convertible currency;

(f) special drawing rights;

(g) securities or bonds in convertible currency issued by an international financial institution; and

(h) subject to subsection (2) -

- (i) treasury bills of the Government, denominated in dalasi and maturing within ninety-one days, and
- (ii) other securities of the Government, denominated in dalasi and maturing in not more than twenty years which have been publicly issued or form part of an issue which is being made to the public at the time of acquisition.

(2) The aggregate holding of treasury bills and of securities under subsection (1)(h) shall not at any time exceed sixty *per cent* of the currency in circulation.

Liabilities for issue

44. (1) The currency cover assets of the Bank is available to meet only the liabilities of the Bank as represented by the total of the amount of currency notes and coins issued by the Bank and are in circulation.

(2) Where at any time the assets of the Bank, including funds in the General Reserve Fund and the Revaluation Reserve Account, are insufficient to meet demands for the redemption of notes and coins, that deficiency shall be a charge on the Consolidated Fund.

Legal tender

45. (1) The currency notes issued by the Bank are legal tender at their face value.

(2) The coins issued by the Bank are legal tender in The Gambia at their face value up to an amount not exceeding two thousand dalasis.

(3) For the purposes of this Act, a coin is deemed to have been tampered with if the coin has been-

(a) impaired, diminished or lightened, otherwise than by fair wear and tear, or

(b) defaced by stamping, engraving or piercing, whether the coin has been diminished or lightened by the stamping, engraving or piercing, or not.

(4) The Bank may, on giving not less than three months notice in the *Gazette*, call in any of its currency notes and coins on payment of the face value.

(5) The notes or coins with respect to which a notice has been given under this subsection (4) shall, on the expiration of the notice, cease to be legal tender.

Refund of lost or imperfect currency notes or coins

46. (1) A person is not entitled to recover from the Bank the value of any mutilated or imperfect currency note or a coin tampered with.

(2) Notwithstanding subsection (1), the Governor may permit the exchange of the amount of any mutilated or imperfect currency note or coin as determined by the Governor.

Evidence of imitation of a currency note

47. Where in any proceedings in a court, it is determined that a document purporting to be a currency note is an imitation of a currency note, a certificate in the form set out in the Schedule under the hand of the Governor or the First or Second Deputy Governor shall be received in evidence, without further proof, as conclusive evidence of the fact that the document is an imitation of a currency note.

Schedule

Exemption from stamp duty on currency notes

48. The Bank is not liable for the payment of a stamp duty under an enactment in respect of currency notes issued by it.

Exchange of currency notes

49. (1) A person who delivers to the Bank an amount of currency notes or coins is entitled to receive from the Bank in exchange, without charge, currency notes or coins of the same amount and of the denomination as that person may require.

(2) Where the Bank is unable to give currency notes or coins of the denomination required under subsection (1), it shall give that person currency notes or coins of the nearest denomination.

PART VIII - OPERATIONS

Business transactions

50. Subject to this Act and the policies of the Bank, the Bank may undertake or transact any or all of the following-

(a) accept deposits from and make payments to Government and other public bodies, agencies or international multilateral financial organizations, and bodies or persons specified in notices issued by the Board;

- (b) issue demand drafts and other forms of remittances made payable at its own offices or the offices of agencies or correspondents;
- (c) purchase and sell secured export bills;
- (d) purchase, sell, discount and rediscount bills of exchange and promissory notes arising out of *bona fide* commercial transactions bearing two or more authorized signatures and maturing within ninety days, exclusive of day of grace from the date of acquisition;
- (e) purchase, sell, discount and rediscount bills of exchange and promissory notes bearing two or more authorized signatures drawn or issued for the purpose of financing seasonal agricultural operations or the marketing of crops and maturing within one hundred and eighty days, exclusive of days of grace from the date of acquisition;
- (f) purchase, sell, discount and rediscount treasury bills of the Government issued publicly;
- (g) purchase and sell for the Bank's account, Government securities and guaranteed securities of other public corporations;
- (h) grant to any financial institution advances for a fixed period not exceeding three months at the interest rate determined by the Board against promissory notes secured by the pledge with the Bank of-

- (i) gold, gold coin or bullion;
 - (ii) securities of the Government which have been publicly offered for sale and are to mature within a period of twenty years;
 - (iii) warehouse warrants or their equivalent (securing possession of goods) in respect of staple commodities on other goods duly insured with a letter of hypothecation from the owner;
- (i) grant, on the conditions determined by the Board, advances to financial institutions for fixed periods not exceeding three months against publicly issued treasury bills of the Government maturing within ninety-one days of the issue;
 - (j) accept from customers, for safe custody, moneys, securities and other articles of value, and collect proceeds whether principal, interest or dividend on the moneys, securities or articles of value; and
 - (k) generally conduct the business of banking for its specified customer base.

Transactions in securities

51. The Bank may issue securities of its own, specify the conditions for the securities and sell or purchase them.

Payment system

52. (1) The Bank shall have oversight responsibilities for all payment systems in The Gambia and in so doing may facilitate the clearing of cheques and other credit instruments for financial institutions carrying on business in The Gambia.

(2) For the purposes of subsection (1), the Bank may, at any appropriate time and in conjunction with other financial institutions, organise a clearing house and provide facilities for it in Banjul and in such other place or places as may be desirable.

Clearing and payments agreement

53. The Bank may, either on its account or by order of the Government, enter into clearing and payments agreements or any other contracts for the same purpose with public and private central clearing institutions domiciled abroad.

Businesses the Bank may not engage in

54. (1) Except as authorized by the Board, and for the purposes of supporting the Bank's core functions, the Bank shall not-

- (a) engage in a trade or have a direct interest in any commercial, agricultural, industrial or any other undertaking, except an interest that the Bank may acquire in the course of the satisfaction of debts due to it;
- (b) purchase the shares of a company except shares of a financial institution or grant loans on the security of shares;
- (c) advance money on mortgage or otherwise on the security of immovable property or the title deeds relating to that property;

- (d) become the owner of an immovable property, except in so far as it is necessary for its own business premises and residence of its staff and employees;
- (e) draw or accept bills payable otherwise than on demand;
- (f) accept for discount or as guarantee for an advance made by the Bank; bills or notes signed by members of the Board or by the Bank's officials or other employees.

(2) Notwithstanding subsection (1)(c), the Bank may, for the purpose of acquisition of houses by its staff, advance money on mortgage to a member of staff on such terms and conditions as are determined by the Board.

PART IX – FOREIGN EXCHANGE REGIME, EXCHANGE RATE POLICY, AND INTERNATIONAL RESERVES

Foreign exchange regime

55. (1) The foreign exchange regime of The Gambia shall be –

- (a) determined by the Government after consulting the Bank; and
- (b) shall be consistent with the obligations of any international treaty to which The Gambia is a party or which it has ratified.

(2) The Government may declare an external value for the dalasi and any change in its value.

(3) Where the Government does not declare an external value for the dalasi or any other

exchange system, the exchange rates for the dalasi against other currencies shall be determined in the market.

Exchange rate
policy

56. (1) The Bank shall formulate and execute the exchange rate policy of The Gambia.

(2) The Bank may issue guidelines for the purpose of regulating the purchase, sale, holding or transfer of foreign exchange.

(3) The Bank may, in order to achieve its objective under this Act or to avert a foreign exchange crisis, temporarily restrict the purchase, sale, holding or transfer of foreign exchange.

(4) A restriction under subsection (3) –

(a) shall initially be only for a period not exceeding twelve months; and

(b) may be extended for another period not exceeding twelve months only with the approval of the Board.

(5) Whenever the Bank imposes a restriction, it shall submit a report to the Secretary of State within seven days, and every three months thereafter, containing the causes which have led to the imposition of the restriction and the actions the Bank intends to take to remedy the situation.

(6) A restriction imposed under this section shall be consistent with any obligation acquired by The Gambia under any international agreement to which it is a party.

Additional
responsibilities
of the Bank

57. Without prejudice to section 58, the Bank shall –

(a) make rules governing foreign exchange market operations;

(b) license, revoke the licences of, supervise and regulate foreign exchange dealers and financial institutions pursuant to exchange regulations made by the Bank;

(c) set limits on open foreign exchange positions of financial institutions; and

(d) own, maintain and manage international reserves.

External
reserves

58. (1) The Bank shall establish and maintain an external reserve which shall consist of all or any of the following assets –

(a) foreign exchange in the form of notes and coins or bank balances held abroad in foreign currencies;

(b) gold;

(c) any other internationally recognized reserve asset, including –

(i) the entitlement to make reserve tranche purchases from the International Monetary Fund or other international financial institution,

(ii) the holding by The Gambia of Special Drawing Rights of the International Monetary Fund;

- (d) bills of exchange and promissory notes, payable in convertible foreign currencies; and
- (e) debt securities issued or guaranteed by, and forward purchase or re-purchase agreements concluded with or guaranteed by, foreign States or Central Banks or international financial institutions denominated and providing for payment in foreign currencies.

(2) The Bank shall use its best endeavours to maintain the international reserves at a level, which, in the Bank's opinion, is adequate for the execution of its monetary and exchange rate policies and for the prompt settlement of The Gambia's international transactions.

(3) If the international reserve has declined or, in the opinion of the Bank, is in danger of declining to such an extent as to jeopardize the execution of the monetary or exchange rate policies or the prompt settlement of the Gambia's international transactions, the Bank shall submit to the Secretary of State-

- (a) a report on the international reserves position; and
- (b) the causes which have led or may lead to such a decline, together with such recommendations as it considers necessary to remedy the situation.

(4) The Bank shall make such further reports and recommendations as it thinks necessary, until such time as, in its opinion, the situation has been rectified.

Reporting of
foreign
exchange
transactions

59. (1) The Bank may require financial institutions and foreign exchange dealers to report periodically to the Bank their open foreign exchange positions on a currency-by-currency basis and overall open position.

(2) The Bank shall prescribe the reporting forms and supporting documents that shall be submitted under subsection (1).

Transactions in
assets of
international
value

60. (1) The Bank may

- (a) purchase and sell external convertible currencies;
- (b) discount and re-discount treasury bills drawn in convertible currencies;
- (c) purchase and sell bills of exchange drawn in convertible currencies;
- (d) import, export, refine, hold, sell, transfer or otherwise deal in gold, gold coins and bullion, silver, platinum and any other precious metals as determined by the Board;
- (e) accept deposits from foreign banking institutions, international financial institutions, foreign governments and their agencies or the organs of the United Nations;
- (f) acquire, hold and transfer foreign exchange and foreign government securities;
- (g) maintain accounts with Central Banks and reputable international financial institutions;

- (h) act as correspondent bank or agent for an international banking institution or a monetary authority; and
- (i) effect foreign exchange transactions of any kind.

(2) The Bank shall determine the rates at which it will buy, sell and deal in foreign currencies.

(3) The Bank shall not acquire, hold or transfer any foreign government securities unless those securities are denominated in convertible currency.

61. The Bank may-

- (a) without the prior approval of the Secretary of State, borrow money from foreign institutions for a period not exceeding ninety days for the day-to-day operations of the Bank;
- (b) in accordance with this Act or any other enactment, borrow money from foreign institutions and pledge assets held by it as security for the repayment of the loan;
- (c) lend money or grant short-term credits to any financial institutions, but the Bank may, without the approval of the Secretary of State, lend to those institutions in the ordinary course of business.

PART X – BANKING SUPERVISION AND RESEARCH

Co-operation with licensed institutions in The Gambia 2003 No. 8

62. (1) The Bank shall exercise prudential supervision over financial institutions in accordance with the provisions of the Financial Institutions Act, 2003.

(2) The Bank shall, wherever necessary, seek the co-operation of, and co-operate with, financial institutions in The Gambia to -

- (a) promote and maintain satisfactory deposit taking services for the public; and
- (b) to ensure high standards of conduct and management throughout the deposit taking system.

Required reserves.

63. (1) The Bank may, from time to time, prescribe by regulations and by written notice to each financial institution the maintenance of required reserves, against deposit and other similar liabilities which may be specified for that purpose.

(2) The reserves required under subsection (1), shall be maintained by way of cash holding with financial institution or by way of balance held in the current account with the Bank or both on a periodic average basis in such proportion and over such period as the Bank may prescribe.

(3) Any prescription of, or increase in, the required reserve ratios shall be effective only after reasonable notice has been communicated to the financial institutions.

(4) The reserves held by way of balances in the current account with the Bank may, under such regulations and subject to such charges as may be prescribed by the Bank, be withdrawn by financial institutions for the purpose of meeting their existing liabilities and may further serve as a basis for the clearance of cheques and settlement of balances among financial institutions.

(5) A financial institution shall send to the Bank returns signed by two responsible officers of the financial institution concerned considered necessary for carrying out the purposes of this section at such periods of time as the Bank may from time to time direct.

(6) The Bank shall impose on any financial institution, which fails to maintain the required reserves in the appropriate ratio prescribed under this section, a penal interest -

(a) at a rate of five *per cent* above the Bank rate for so long as the deficiency continues; and

(b) payable to the Bank on demand by it within such date as may be determined by the Bank.

(7) A penal interest may be recovered by deduction from any balance in the account of the financial institution maintained with the Bank.

(8) The Bank may pay interest at such rate as it thinks fit, on deposits held under this section and the interest payment shall -

(a) only be limited to the minimum amount required; and

(b) not exceed the minimum deposit required to be maintained by an institution.

Statistical data and publication of bulletins and reports

64. For the purpose of providing the Board with information necessary for the proper formulation of monetary and credit policies and for informing the public about economic financial developments, the Bank shall-

(a) collect and prepare statistics on money and banking, public finance, prices, wages, production, the balance of payment and any other statistical data that the Board may direct;

(b) publish a quarterly bulletin on economic and financial indicators;

(c) prepare and publish the annual report of the Bank which shall include-

(i) statements about monetary policies pursued in the year under review,

(ii) a review of internal and external factors affecting the outcome of monetary policy, and

(iii) future policy actions; and

(d) perform any other duties that the Board may direct.

Request for
research
information

65. (1) For the effective conduct of research, the Bank may request from an institution or a person information relating to money or banking, balance of payments and any other subjects that the Board may direct.

(2) Information received under subsection (1) shall be treated with the utmost confidence.

(3) A publication for statistical purpose or information obtained under subsection (1) shall not include personal data.

(4) A person who fails to supply information requested under subsection (1) commits an offence and is liable on summary conviction or to a fine not exceeding fifty thousand dalasis or to imprisonment for a term not exceeding two years or both and where the offence is continued after conviction, to a further fine not exceeding one thousand dalasis for every day on which the offence is continued.

PART XI - ACCOUNTS AND AUDIT

66. (1) The Bank shall keep proper books of accounts and records in relation to those accounts.

(2) The financial statements of the Bank shall be prepared in accordance with an acceptable financial reporting framework to be determined by the Board.

(3) The Auditor-General shall-

- (a) audit the books of accounts of the Bank; and

Accounts and
audit

(b) within six months of the end of the immediately preceding financial year to which the accounts relate, report to the National Assembly on the accounts

General reports 67. (1) The Bank shall, within three months after the end of each financial year-

(a) transmit a copy of the annual accounts certified by the Auditor-General to the Secretary of State who shall, not later than one month after receipt of the annual accounts, cause the annual account to be published in the Gazette; and

(b) submit to the Secretary of State an annual report on its working during the financial year in question which shall be published by the Bank within six months from the end of the financial year to which it relates.

(2) The Bank shall-

(a) after the fifteenth day and the last day of each month, prepare and publish return of its assets and liabilities as at the close of business on those days, or if either of those days is a holiday, then at the close of business on the last preceding business day;

(b) transmit, to the Secretary of State, a copy of the return prepared under paragraph (a); and

(c) publish the return in the *Gazette* within one month after receipt of the return by the Secretary of State.

Financial year of the Bank

68. The financial year of the Bank shall be the same as the financial year of the Government.

PART XII - GENERAL AND SUPPLEMENTARY PROVISIONS

Training of employees of the Bank and bankers

69. (1) The Bank may, in co-operation with banks in The Gambia or with any other bodies determined by the Board, establish educational institutions and facilities for the training of employees for the Bank and for other banks in The Gambia.

(2) Subsection (1) is without prejudice to any other banking training facilities that an institution or individual bank may have or provide.

Exemption from tax and stamp duty

70 The Bank is exempted from all Government taxes and stamp duty on its profit, operations, capital, property and documents in respect of its functions under this Act.

Liquidation

71. The Bank shall not be placed in liquidation except in accordance with an Act of the National Assembly passed for that purpose.

Bye-laws by the Board

72. (1) The Board may make by-laws and issue notices not inconsistent with this Act, for the purposes of regulating the administration of the Bank and for the performance of its functions.

(2) Bye-laws and notices made or issued under subsection (1) shall be signified under the hand of the Secretary to the Board.

Offences and penalties

73. Except as otherwise provided in this Act, a person who-

(a) contravenes a provision of this Act or regulations made under this Act, or anything prescribed or direction made or given under this Act and published in the Gazette; or

(b) knowingly makes an incorrect statement in a document submitted by that person or an incorrect reply to a question asked of that person for the purpose of this Act,

commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dalasis or to imprisonment for a period not exceeding two years or to both.

Offences by bodies of persons

74. (1) Where an offence is committed under this Act or under Regulations made under this Act by-

(a) a body corporate, other than a partnership, every director or officer of that body; and

(b) a partnership, every partner or officer of the partnership,

is deemed to have committed the offence and shall be punished, accordingly.

(2) A person shall not be convicted of an offence by virtue of subsection (1), if he or she proves that the offence was committed without his or her knowledge or connivance, and that he or she exercised all due care and diligence to prevent the commission of the offence having regard to all the circumstances.

PASSED in the National Assembly this Fifteenth day of December
in the year of Our Lord Two Thousand and Five

D. C. M. Kebbeh
Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill
which has passed in the National Assembly, and found by me to be a true and correct
copy of the said Bill.

D. C. M. Kebbeh
Clerk of the National Assembly.