

CHAPTER 317

PROTECTION OF DEPOSITORS

PROTECTION OF DEPOSITORS BYE-LAWS, 1999 *S.I. 105/1999*

(SECTION 28)

[Commencement 19th November, 1999]

1. These Bye-laws may be cited as the Protection of Depositors Bye-laws, 1999. Citation.
2. In these Bye-laws — Interpretation.
 - “the Act” means the Protection of Depositors Act, 1999;
 - “individual account” means a deposit account maintained by a person in his own name and on his own behalf;
 - “insured deposit” means a deposit insured under section 6 of the Act;
 - “insured limit” means the limit of deposit insurance coverage prescribed by or under section 6 of the Act;
 - “joint account” means an account in which more than one person has an interest;
 - “nominee” includes an agent, guardian, custodian and the receiver of a patient’s property appointed under section 37 of the Mental Health Act; Ch. 230.
 - “prescribed maximum” means the sum of fifty thousand dollars or such other amount as may be prescribed under section 6(2) of the Act;
 - “trust account” means an account in respect of which a beneficiary has an interest under an irrevocable express trust created by a written law or by a trust instrument, but does not include any interest retained by the settlor.

Commencement
of operations of
Corporation.
10th November
1999.

3. (1) The Corporation shall commence operation on the date the Act comes into force (hereinafter referred to as the commencement date).

(2) Within four weeks of the commencement date or such later date as may be allowed by the Corporation the Bank shall transmit to the Corporation in respect of every institution —

- (a) a copy of its memorandum and articles of association;
- (b) a copy of its accounts for the immediately preceding three years or for the period since it was licensed, whichever is the shorter;
- (c) a statement as to its deposit liabilities.

Issue of
certificate of
insurance to
licensed
institution.

4. (1) The Corporation shall issue to every institution a certificate of insurance —

- (a) within eight weeks of the commencement date or such later date as may be allowed by the Minister; or
- (b) within four weeks of the notification under by-law 6 to the Corporation of the licensing of the institution.

(2) An institution shall display prominently in all of its offices a copy of its certificate of insurance certified by the Corporation.

Assessment of
initial
contribution and
annual premium.

5. (1) The Corporation shall assess the initial contribution and the annual premium to be paid by every institution in accordance with the provisions of section 5 of the Act.

(2) Where after the commencement date an institution is licensed for the first time, the assessment in respect of that institution shall be made not earlier than six months after the issue of the licence.

(3) The Corporation shall notify every institution of the initial contribution and annual premium which it is required to pay, the manner of payment and the time within which such payment is to be made.

Minister to
supply to
Corporation
information
regarding
institutions.
Ch. 316.

6. Within one week of the issue of a licence to an institution the Bank shall notify the Corporation of the same and shall transmit to the Corporation copies of the information which the institution has submitted to the Minister under section 4 of the Banks and Trust Companies Regulation Act.

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- 7.** The Bank may make available to the Corporation copies of any reports made by the Bank relating to any member institution. Reports to be available to the Corporation.
- 8.** (1) On or before January 31 in each year every institution shall file with the Corporation a report, certified by a director of the institution of — Annual returns by institutions to Corporation.
- (a) its deposit liabilities for each quarter of the preceding year;
 - (b) the institution's assessment of the annual premium imposed on it under section 5 of the Act for the current year.
- (2) An institution which fails to comply with paragraph (1) is guilty of an offence.
- 9.** The public notification of the closure of an institution under section 16(1) of the Act shall indicate the date of closure and shall state that — Public notification of closure of institution.
- (a) payment of insured deposits will commence within six months from the date of closure;
 - (b) if the depositor does not claim his insured deposit from the Corporation within twelve months of the date of closure, all rights of the depositor against the Corporation concerning the insured deposit are barred, but without prejudice to the rights of the depositor against the institution.
- 10.** (1) The Corporation shall in respect of a closed institution — Powers of Corporation in relation to closed institution.
- (a) balance the books of the institution and update all of its depositors' accounts;
 - (b) prepare a list of the assets of the institution;
 - (c) prepare a list of all depositors and determine the liability of the institution to each depositor;
 - (d) prepare a list of the depositors with loans from the institution and a list of those loans which can be set off against deposits under section 15 (e) of the Act;
 - (e) prepare statements of all depositors' accounts for reconciliation by the depositors prior to the filing of claims for deposit insurance under section 16 of the Act;

- (f) prepare a list of depositors with deposits in excess of the insured limit and a list of those depositors to whom certificates for the excess will be given under section 16 of the Act;
- (g) prepare a list of other uninsured liabilities of the institution and an estimate of the amount of such liabilities;
- (h) prepare a list showing depositors without any set-offs.

(2) The Bank shall grant all assistance within its power to the Corporation in the discharge of the Corporation's duties under paragraph (1).

Payment by Corporation to depositor.

11. In calculating the sum to be paid to the depositor under section 15(d) of the Act, there shall be deducted any moneys due to the institution by the depositor.

Claims for deposit insurance. Schedule.

12. (1) A claim for deposit insurance shall be in the form set out in the Schedule and shall be accompanied by satisfactory evidence of the claimant's ownership of or interest in the deposit.

(2) A separate claim shall be submitted for each deposit in respect of which, in whole or in part, a claim is made.

(3) The claim shall be made by the person in whose name the deposit account is recorded, or by the assignee thereof.

Payment of claims.

13. (1) For the purpose of payment of deposit insurance, the deposit account records of the institution are *prima facie* evidence of the deposit, its nature and ownership.

(2) Where the Corporation is satisfied as to the *bona fides* of the claim and the amount thereof that is due, the Corporation shall authorise the payment of the claim.

(3) Payment shall be made to the claimant or to a person authorised by him in writing to collect the amount due and to sign a receipt therefor on his behalf.

(4) Where payment is made to a person other than the depositor, the Corporation may require the person to execute a contract of indemnity in respect of the amount paid.

14. (1) Deposits maintained by a person in more than one account in the same name or in the name of a nominee in the same institution shall be added together and insured up to the prescribed maximum in respect of the aggregate amount in the accounts.

Individual and nominee accounts.

(2) Funds held by a nominee for the benefit of a principal, ward, minor or patient and deposited in one or more deposit accounts shall be added to any individual accounts of the principal, ward, minor or patient and insured up to the prescribed maximum.

15. (1) Subject to this bye-law, a trust account shall be insured up to the prescribed maximum.

Trust accounts.

(2) Subject to paragraph (4), trust accounts containing funds from the same settlor shall be aggregated.

(3) Funds held in a trust account shall not be combined with individual accounts of a trustee, settlor or beneficiary under the trust.

(4) Where the amount of the interest of a beneficiary under a trust account is ascertainable from the records of the institution, the interest of the beneficiary shall be insured up to the prescribed maximum, separately from the trust account, and the amount of the beneficiary's interest shall be deducted from that trust account for the purpose of insurance of the trust account.

(5) Where a beneficiary has an interest in more than one trust account, his interest in each such account shall be combined and insurance shall be paid up to the prescribed maximum on the aggregate of such interests.

16. Funds of a decedent held in his name, or in the name of the executor or administrator of his estate, and deposited in one or more deposit accounts shall be added together and insured up to the prescribed maximum, separately from the individual accounts of the beneficiaries of the estate or of the executor or administrator.

Personal representative accounts.

17. (1) Subject to this bye-law, deposit insurance is payable in respect of a joint account up to the prescribed maximum.

Joint accounts.

(2) Joint accounts maintained by the same person are added together.

(3) Where a depositor has an interest in more than one joint account and different joint owners are involved

his interest in each such account shall be combined and insurance shall be paid to the prescribed maximum on the aggregate of such interest.

(4) Unless otherwise stated in the records of the institution, the interest of co-owners in a joint account shall be deemed to be equal.

(5) The receipt for payment of deposit insurance shall be signed by all the joint holders of the account, except where a mandate to the institution authorises any one or more of such holders to sign for the withdrawal of funds.

SCHEDULE (Bye-Law 12(1))

THE PROTECTION OF DEPOSITORS BYE-LAWS, 1999

1. NAME OF INSTITUTION:.....
 Branch:.....
2. CLAIMANT:.....
 Surname:.....
 First Name:
 Other Name:
 I.D.:
 Address:
 Telephone:(Home)(Work)
3. DEPOSIT OR ACCOUNT TYPE:
 Issue date:
 Maturity date:
 Rate:
 Principal: \$
 Interest due: \$
 Payments received to date: \$
 Total claim: \$
 Is deposit pledged: Yes []No []
 If yes, to whom:
4. LOANS HELD AT INSTITUTION
 Principal: \$
 Rate:
 Term:

Date loan granted:

Instalments:\$ per

Date of last payment:

Balance outstanding: \$

I/We claimant(s) state that this claim is made on behalf of ... and that no part of the said debt has been paid, that no endorsement or assignment of the same or any part thereof has been given nor do I/We have any outstanding loans with the said institution save as set out above. I/We certify the above information to be correct and are aware that there are penalties for fraudulent claims under section 27(3) of the Protection of Depositors Act, 1999.

Signed:

For official use only.

Balance due on deposit: \$

Outstanding loan (if any): \$

Amount of insured claim: \$

Receiver certificate:

Cross reference:

Claim No:

Date received:

Date checked:

Verified:

Approved: