



ANALYSIS

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2010, No. 3

An Act to amend the Banking Act 2003

(16 August 2010)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled in accordance with Article 41(1) of the Constitution of the Cook Islands, and by the authority of the same, as follows:

1. **Short Title** - This Act may be cited as the Banking Amendment Act 2010 and shall be read together with and deemed part of the Banking Act 2003 (hereinafter referred to as "the principal Act").
2. **Classes of licence** - (1) Section 4 of the principal Act is repealed and the following substituted –
 - "4. – (1) A licence granted under this Act shall be in one of the following two classes –
 - (a) a domestic banking licence, which shall authorise the licensee to carry on domestic banking business in and from within the Cook Islands;
 - (b) an international banking licence which shall authorise the licensee to carry on international banking business in or from within the Cook Islands.
 - (2) An international banking licence may only be issued to or held by the holder of a domestic banking licence.

3. Existing licences - (1) Section 5 of the principal Act is repealed.
- (2) Every international banking licence that is in force on the commencement of this Act shall cease to have effect on the cessation date.
- (3) Every domestic banking licence which is in force at the commencement of this Act shall continue in force subject to the provisions of the principal Act.
- (4) Every holder of an international banking licence that is in force on the commencement of this Act shall, from that date, notwithstanding subsection (1) of section 4 of the principal Act, be entitled to conduct the banking business to which that licence relates but only in a manner best calculated to ensure an orderly winding up or relocation of that business (or the redomiciliation of that holder from the Cook Islands) prior to the cessation date.
- (5) Where the annual licence fee paid pursuant to subsection (8) of section 10 of the principal Act relates to a period expiring after the cessation date the Commission shall refund a portion of the fee to the licensee, calculated on a monthly basis.
- (6) The provisions of subsections (2) and subsections (4) and (5) of this section shall not apply to an existing licensee that holds a domestic banking licence.
- (7) In this section the words "cessation date" mean the date that is nine months after the commencement of this Act.
4. Application for licence to carry on banking business - Section 6 of the principal Act is amended by -
- (a) deleting subsection (3) and by substituting the following -
- “(3) No person other than the holder of a domestic banking licence shall be eligible to apply for an international banking licence.”; and
- (b) deleting subsection (10).
5. Physical presence - Section 23 of the principal Act is amended by deleting subsection (6).
6. Appointments - Section 27 of the principal Act is amended by deleting subsection (3).
7. Restrictions involving restricted licensees - Section 40 of the principal Act is repealed.
8. Exemption from taxes and stamp duty - Section 48(1) of the principal Act is amended by deleting every reference to the words "restricted licensee".

This Act is administered by the Financial Supervisory Commission