

**NATIONAL RESERVE BANK OF TONGA ACT, 1988**  
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**Tonga**

**NO. 48 of 1988.**



I assent,  
TAUFA'AHU TUPOU IV,  
29th December, 1988.

**AN ACT**

TO ESTABLISH THE NATIONAL RESERVE BANK OF TONGA AND FOR  
PURPOSES CONNECTED THEREWITH

[3rd December, 1988.]

BE IT ENACTED by the King and the Legislative Assembly of Tonga in the  
Legislature of the Kingdom as follows:

**PART I - PRELIMINARY**

1. (1) This Act may be cited as the National Reserve Bank of Tonga Act, 1988.

Short Title  
and Com-  
mencement.

(2) Part V and section 62 of this Act will not come into operation until the  
day appointed under section 36.

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

Interpretation

“Bank” means the National Reserve Bank of Tonga established under section  
3;

“bank” means any financial institution whose business includes the  
acceptance of deposits of money transferable by cheque or other means of third  
party transfer;

“banking business” means: (i) the business of receiving funds through the  
acceptance of deposits of money payable upon demand or after a fixed period or  
after notice, or any operation through the frequent sale or placement of bonds,  
certificates, notes or other securities, and the use of such funds either in whole or  
in part for loans or investments for the account and at the risk of the person doing

such business; and (ii) any other activity recognized by the Bank as customary banking practice which a financial institution engaging in the activities described in (i) may additionally be authorized to do by the Bank;

“Board” means the Board of Directors of the Bank established under section 9;

“Chairman” means the Chairman of the Board;

“credit institution” means a financial institution other than a bank;

“currency” means currency note or coin;

“Deputy Chairman” means Deputy Chairman of the Board;

“Deputy Governor” means the Deputy Governor of the Bank appointed under section 17;

“director” means a member of the Board;

“financial institution” means an institution doing banking business:

Provided, that for the purposes of this Act, unless otherwise specified, all offices and branches of a financial institution in Tonga shall be deemed to be one financial institution;

“Governor” means the Governor of the Bank appointed under section 11;

“Minister” means the Minister of Finance;

“statutory corporation” means a body corporate other than a financial institution, established under any written law, other than a law relating to the formation and registration of companies:

Provided that for the purposes of this Act any company in which His Majesty’s Government owns a majority of the share capital shall be deemed to be a statutory corporation.

## **PART II – CONSTITUTION**

**Establishment  
of National  
Reserve Bank  
of Tonga.**

**3.** (1) The National Reserve Bank of Tonga is hereby established in accordance with the provisions of this Act.

(2) The Bank shall –

- (a) be a body corporate with perpetual succession and a common seal;
- (b) be capable of entering into contracts, suing or being sued in its own name;
- (c) subject to the provisions of this Act, have power to acquire, hold and dispose of real and personal property;
- (d) have power to make such expenditure as it deems necessary for the proper discharge of its functions.

**4.** The principal purposes of the Bank shall be –

**Principal purposes of the Bank.**

- (a) to regulate the issue of currency, and the supply, availability and international exchange of money;
- (b) to manage the external reserves of the Kingdom;
- (c) to promote monetary stability;
- (d) to promote a sound financial structure;
- (e) to foster credit and exchange conditions conducive to the orderly and balanced economic development of the Kingdom;
- (f) to provide advisory services to the Minister on banking and monetary matters;
- (g) to be the principal banker and fiscal agent of the Government;
- (h) to undertake banking business, in Tonga or elsewhere, subject to the provisions of this Act;
- (i) to undertake the licensing and supervision of financial institutions.

**5.** The Bank shall have its head office in Nuku'alofa and may establish branches within Tonga, appoint agents and correspondents within Tonga and abroad and, with the approval of His Majesty in Council, establish offices abroad.

**Offices, branches, agents and correspondents**

**PART III – CAPITAL, RESERVES AND PROFITS**

**6.** (1) The authorized capital of the Bank shall be \$2,000,000.

**Capital.**

(2) Half of the authorised capital shall be paid up as provided for in section 36(2). The balance of authorised capital may be paid up from time to time by His Majesty's Government either in cash or by transfer from the General Reserve established under section 7 if His Majesty in Council so elects.

(3) All capital stock shall be wholly owned by His Majesty's Government, shall not be transferable or subject to encumbrance and shall not be reduced except by an amendment to this Act.

**General Reserve**      **7.** The Bank shall establish a General Reserve to which shall be allocated at the end of each financial year of the Bank such sums as shall be specified pursuant to section 8.

**Profits**            **8.** (1) The net profits of the Bank for any financial year, after meeting all current expenditure for that year and after making provision for bad and doubtful debts, depreciation in assets and any other purposes deemed necessary by the Board shall be dealt with as follows:

(a) such amounts as the Board, with approval of the Minister, determines shall be allocated to the General Reserve established under section 7; and

(b) the remainder shall be paid to the general revenue of the Kingdom as soon as practicable after the end of the financial year.

(2) No payment shall be made under subsection 1(b) if it appears to the Board, following consultation with the auditors appointed under section 53(1) that the assets of the Bank are, or after the payment would be, less than the sum of its liabilities including paid up capital.

#### **PART IV – BOARD, MANAGEMENT AND EMPLOYEES**

**Board, its powers and responsibilities.**      **9.** There shall be a Board of Directors of the Bank composed in accordance with section 10 which shall be responsible for its policy and affairs and which may issue directives for the purpose of giving effect to the provisions of this Act.

**Membership of the Board.**      **10.** The Board shall consist of

- (a) the Governor; and
- (b) six other directors –
  - (i) to be appointed from time to time by His Majesty in Council;



- (ii) to hold office during the pleasure of His Majesty in Council, and who may from time to time reappointed;

Provided that no such director shall hold office continuously for more than 5 years without reappointment.

**11.** (1) His Majesty in Council shall appoint from among the Directors, a Chairman and Deputy Chairman. **Appointment of Chairman, Deputy Chairman and Governor.**

(2) The Governor shall be a person of recognized experience in financial and banking matters, and shall be appointed by His Majesty in Council for a period of not less than 3 or more than 5 years and shall be eligible for re-appointment. He shall preside at meetings of the Board in the absence of the Chairman and the Deputy Chairman.

(3) The remuneration and other terms and conditions of employment of the Governor shall be as determined from time to time by His Majesty in Council.

**12.** All directors shall be paid such remuneration in respect of their services as may be determined by His Majesty in Council. **Remuneration of directors.**

**13.** (1) A director may resign his office on giving notice in writing to the Privy Council through the Minister. **Resignation and Disqualification**

(2) No person shall be appointed or remain a director –

- (a) who becomes or has anywhere been declared bankrupt and has not been discharged, or against whom an order has been made in any Court to pay a specific sum of money and fails to do so without leave of the court.
- (b) who has anywhere been convicted of an offence involving dishonesty;
- (c) who has, in the case of a person having professional qualifications, been disqualified or suspended from practising his profession by the order of any competent authority made in respect of him personally.
- (d) if Privy Council, following consultation with the Governor, decides that he is incapable of carrying out, or is guilty of serious misconduct in the performance of, the duties of his office.

**Appointment  
to fill a  
vacancy**

- 14.** If a director dies or resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, another person shall be appointed in accordance with section 10 at the earliest opportunity, and in any event within 30 days, to fill the vacancy and shall hold office until the date when the appointment of the person in whose place he was appointed would have expired.

**Duties of  
the Governor.**

- 15.** (1) The Governor shall -
- (a) serve as Chief Executive Officer of the Bank responsible to the Board for the execution of its policy and the management of the Bank;
  - (b) except as may otherwise be provided in this Act, the regulations of the Bank or the resolutions of the Board, have the power to act, contract, sign instruments and documents on behalf of the Bank and, pursuant to the resolutions of the Board, delegate any of these powers to the Deputy Governor or to other officers of the Bank.
- (2) The Governor shall devote the whole of his professional services to the Bank and shall not, without the approval of His Majesty in Council, occupy or hold any other office or employment, whether remunerated or not, except as nominee of the Bank except that he may -
- (a) act as a member of any statutory board, committee or commission established by His Majesty's Government;
  - (b) become a governor, director or member of the board of any international financial institution of which the Kingdom of Tonga is a member.
- (3) In the event of the absence or incapacity of the Governor from whatever cause arising, the Deputy Governor appointed in accordance with section 17 shall act as Governor and shall have and may exercise all the powers and functions of the Governor in accordance with subsection (1), and shall be deemed to be a director.
- (4) In the event of both the Governor and the Deputy Governor being unable for any reason to carry out their duties, His Majesty in Council may appoint another director, an officer of the Bank or any other person who is qualified for appointment as a director under this Act, to act as Governor for the time being; and any person so appointed shall, so long as his appointment continues, have all the powers and functions of the Governor.

(5) Any person, other than a director, who is appointed under this section to act as the Governor shall while so acting be deemed to be a director.

**16.** (1) The Board shall meet as often as the business of the Bank may require but not less frequently than once every 2 months. **Meetings of the Board.**

(2) Meetings of the Board shall be convened and notice given in accordance with regulations to be made, and in addition the Chairman shall convene a special meeting of the Board whenever in his judgement, he deems it necessary.

(3) The Chairman or in his absence the Acting Chairman shall preside at all meetings of the Board.

(4) Four directors of whom one shall be the Governor or Acting Governor, shall form a quorum at any meeting and unless otherwise provided in this Act, decisions shall be adopted by a simple majority of the votes of the directors present except that in the event of an equality of votes, the person presiding shall have and exercise a second or casting vote.

(5) No act or proceeding of the Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among the directors.

(6) All acts done by a person acting in good faith as a director shall be as valid as if he were a director notwithstanding that some defect in his appointment or qualification be discovered.

**17.** The Board may appoint and employ, at such remuneration and on such terms and conditions as it may determine, an officer of the Bank to be Deputy Governor and such other officers and employees as the Board considers necessary for the efficient functioning of the Bank. **Power to appoint Deputy Governor, officers and employees.**

**18.** (1) No director shall act as a delegate of any agricultural, commercial, financial, industrial, professional or other interest, or receive or accept directions therefrom in respect of duties to be performed under this Act or by virtue of such capacity under any other Act. **Conflicts of Interest.**

(2) All directors shall fully disclose to the Board any agricultural, commercial, financial, industrial, professional or other interests with which they may at any time be directly or indirectly connected and shall refrain from voting on any matter related thereto which becomes the subject of Board action:

Provided that such an interest, if so disclosed, shall not disqualify the interested party for the purpose of constituting a quorum.

(3) No director nor any officer or employee of the Bank shall accept any gift or advantage for himself or, in his behalf, for persons with whom he may have family, business, or financial connections if the acceptance thereof would result, or give the appearance of resulting, in a diminution of his impartial devotion to his duties under this Act.

Secrecy.

**19.** (1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any written law, no director, officer or employee of the Bank, or auditor appointed under section 53, shall disclose to any person any material information relating to the affairs of the Bank or of any financial institution or other person which he has acquired in the performance of his duties under this Act.

(2) Any person contravening the provisions of this sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000 or imprisonment for not exceeding 2 years or both.

(3) Any person unlawfully using inside knowledge for his own benefit or the benefit of any other person shall be liable to a fine not exceeding \$5,000 or imprisonment for not exceeding 4 years or both.

Personal immunity of directors, officers and employees.

**20.** No director, officer or employee of the Bank or any person acting under direction of the Bank shall be personally liable for an act or default of the Bank done or omitted to be done in good faith and without negligence in the course of the operations of the Bank.

#### **PART V – CURRENCY**

Monetary unit.

**21.** (1) The monetary unit of Tonga is the pa'anga, divided into 100 seniti.

(2) The monetary unit may also, for all purposes, be expressed by the symbol "\$".

Sole right to issue currency.

**22.** The Bank shall have the sole right of issuing currency in the Kingdom and no other person shall issue currency or any documents or tokens payable to bearer on demand having the appearance of or purporting to be currency.

Defacement of notes.

**23.** (1) No person shall, without the authority of the Bank, deface any currency note by means of any writing, printing, stamp, mark or erasure.

(2) Any person contravening the provisions of this section shall be guilty of an offence and liable on conviction to a fine not exceeding \$200.

Legal tender.

**24.** (1) Currency issued by the Bank or deemed to have been issued by the Bank by virtue of Section 36(1)(a) of this Act shall be legal tender in Tonga –

- (a) in the case of notes for the payment of any amount;
- (b) in the case of coins, if the coins have not been tampered with
  - (i) in the case of coins of denominations in excess of \$1 for the payment of any amount;
  - (ii) in the case of coins of denominations of \$1 or less, for payment of an amount not exceeding 50 times their face value.

(2) For the purposes of this Act, a coin shall be deemed to have been tampered with if it has been impaired, diminished or lightened (other than by fair wear and tear) or has been defaced, whether or not the coin has thereby been diminished or lightened.

**25.** (1) In accordance with Clause 45 of the Constitution His Majesty, with the advice of his Cabinet, shall determine the denominations, composition, form, design, content and material of the Tonga currency, and may make regulations with regard thereto. **Manufacture and characteristics of currency.**

(2) The Bank shall arrange for the minting of coins and the printing of currency notes and for all matters relating thereto, and for the security and safekeeping of unissued currency and for the custody, disposal and destruction, as necessary, of plates, dies and retired currency.

(3) Currency notes issued by the Bank shall, subject to subsection (1), bear the signatures of the Prime Minister of Tonga and the Minister or such other person as may be approved by His Majesty with the advice of his Cabinet.

(4) The characteristics of currency to be issued by the Bank shall be published in the Gazette.

**26.** Notwithstanding the provisions of section 24, His Majesty, with the advice of His Cabinet, shall have power, on giving notice in the Gazette and in at least one newspaper published and in general circulation in the Kingdom, to call in, for the purpose of withdrawing from circulation, any currency issued or deemed to have been issued by the Bank on payment of the face value thereof, and any such currency so recalled shall, on the expiration of the time limit specified in the notice, cease to be legal tender: **Power of recall.**

Provided that the holders of any such currency shall be entitled at any time to claim payment from the Bank of the face value thereof.

**27.** The Bank shall issue, reissue and exchange on demand and without charge currency which it has issued or which is deemed to have been issued by it: **Issue, withdrawal and exchange of currency.**

Provided that:-

- (a) in the event of the unavailability of a requested denomination the Bank may deliver currency of available denominations which most nearly approximate those requested.
- (b) a charge may be made for the issue or reissue of any particular currency specified by notice made under section 53(2).

Recovery of lost, stolen mutilated or otherwise damaged currency

**28.** (1) No person shall be entitled to recover from the Bank the value of any lost or stolen currency, except under the terms of any waiver expressly executed in respect of the assumption by the Bank of risks incidental to shipments of currency.

(2) The conditions under which mutilated or otherwise damaged currency may be exchanged or refunded at partial or face value shall be determined by the Bank.

Counterfeit currency.

**29.** The Bank shall assist in the enforcement of any law related to the counterfeiting of currency in Tonga and certification by a duly authorized officer of the Bank that an item in question is or is not genuine shall be prima facie evidence of the fact in any legal proceeding in Tonga.

#### **PART VI – EXTERNAL RESERVE, FOREIGN EXCHANGE OPERATIONS AND REVALUATION RESERVE ACCOUNT.**

External Reserve.

**30.** The Bank shall maintain, within the limits of its powers, an External Reserve at a level which the Bank considers adequate, consisting of all or any of the following on such terms and conditions as the Board may determine

- (a) gold;
- (b) foreign exchange in the form of currency or bank balances held abroad;
- (c) any internationally recognized reserve asset;
- (d) bills of exchange and promissory notes denominated in foreign currency and payable at any place outside the Kingdom;
- (e) treasury bills issued by foreign governments specified from time to time by the Board;
- (f) securities issued or guaranteed by foreign governments, supranational organisations, international financial institutions or any foreign public, municipal or local authority specified from time to time by the Board;
- (g) such other external assets as the Board, with the approval of His Majesty in Council, shall specify.

- 31.** If the External Reserve has declined or, in the opinion of the Bank, appears to be in danger of declining to such extent as to jeopardise its adequacy, the Bank shall submit to His Majesty in Council a report on the reserve position and the causes which have led or may lead to such a decline together with recommendations concerning the measures that it considers necessary to forestall or otherwise remedy the situation. **Value of External Reserve**
- 32.** The Bank may, whether in Tonga or elsewhere – **Operations in foreign exchange and previous metals.**
- (a) buy, sell, borrow or otherwise deal in foreign exchange, gold silver or other precious metals.
  - (b) buy, sell or deal in treasury bills and other securities issued or guaranteed by foreign governments, supranational organisations, international financial institutions or any foreign public, municipal or local authority specified from time to time by the Board;
  - (c) open and maintain accounts with, and place deposits with, central banks and other banks and financial institutions abroad;
  - (d) open and maintain accounts for, accept deposits from, and act as agent or correspondent for, any person approved by the Board.
  - (e) establish foreign credits and give guarantees.
- 33.** (1) The gains or losses arising from any change in the valuation of the Bank's assets or liabilities in, or denominated in, gold or foreign currencies or any internationally recognized reserve asset as a result of alterations of the exchange rate of the currency of Tonga, or of any change in the values of those assets or liabilities with respect to the currency of Tonga, shall be credited or debited to a Revaluation Reserve Account and neither profit nor loss arising from any such change shall be included in the computation of the annual profit or loss of the Bank. **Revaluation Reserve Account**
- (2) Any loss arising from any such change referred to in subsection (1) shall be set off against any credit balance in the Revaluation Reserve Account and, notwithstanding any other provision of this Act, if such balance is insufficient to cover that loss, His Majesty in Council shall cause to be transferred to the ownership of the Bank non-negotiable non-interest bearing securities issued by the Government to the extent of any deficiency.
- (3) Any credit balance in the Revaluation Reserve Account at the end of each financial year of the Bank shall be applied, on behalf of the Government, to the redemption of all securities issued and outstanding under subsection (2) of this section; one fifth of the remaining balance shall be paid to the Government.

Provided that:-

- (a) when the remaining balance does not exceed \$100,000 it shall be paid in full to the Government.
- (b) His Majesty in Council may direct that the applications and payments specified in this subsection shall be varied by such extent as appears appropriate in the prevailing circumstances.

(4) No credit or debit shall be made to the Revaluation Reserve account except in accordance with the provisions of this section.

External value.

**34.** The external value of the pa'anga shall be determined from time to time in a manner approved by His Majesty in Council and which has due regard to the obligations which the Kingdom of Tonga has assumed in accordance with the provisions of any international monetary agreement to which it is a party or to which it has adhered.

Exchange rates.

**35.** (1) The Bank may determine the rate at which the Tongan currency may be exchanged for the currency of any other country.

(2) Any person who exchanges any Tongan currency for the currency of any other country, at a rate which he knows to be other than the rate determined under subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 2 years or to both.

#### **PART VII – TRANSFER OF ASSETS AND LIABILITIES**

Transfer of Assets and Liabilities.

**36.** (1) On a day to be appointed by the Minister by notice in the Gazette, the Bank shall take over the following:-

- (a) the assets of the Board of Commissioners of Currency established under the Treasury Notes Act and the Coinage Act including (but not limited to) the assets of the Note Security Fund, Treasury Note Income Account, Coinage Security Fund and Coinage Income Account established thereunder, and the Bank shall thereupon assume all liabilities of the said Board of Commissioners of Currency, Note Security Fund, Treasury Note Income Account, Coinage Security Fund and Coinage Income Account, including liability for notes and coin issued or deemed to have been issued under the Treasury Notes Act and the Coinage Act and any such notes and coin shall be deemed to have been issued by the Bank.



- (a) all external financial assets held by or on behalf of His Majesty's Government.
- (b) the financial obligations of membership of the Kingdom of Tonga in the International Monetary Fund.

(2) The net assets acquired by the Bank in terms of the last preceding subsection shall be allocated firstly towards meeting his Majesty's Government's liability to pay up an initial amount of \$1,000,000 capital stock in terms of section 6(2) of this Act; any excess of net assets remaining shall be allocated to the General Reserve referred to in section 7 of this Act.

### PART VIII – RELATIONS WITH FINANCIAL INSTITUTIONS

**37.** The bank may under such terms and conditions as the Board may determine-

Opening accounts for financial institutions.

- (a) open accounts for, and accept deposits denominated in pa'anga or any foreign currency from, financial institutions doing business in Tonga; and
- (b) open accounts with, and place deposits denominated in pa'anga or any foreign currency with, financial institutions doing business in Tonga.

**38.** The Bank may --

Operations with account holders.

- (a) effect remittances of money;
- (b) buy from, sell to, discount and rediscount for, holders of accounts with it bills of exchange and promissory notes.
- (c) for its own account issue, sell or place bonds, certificates, notes and similar instruments and purchase such instruments;

Provided that these operations need not be limited to account holders only;

- (d) lend money to holders of accounts with it on such terms and conditions, and against the security of assets which the Bank is authorised by this Act to buy, as may be specified by the Board.

**Required reserves of financial institutions.**

**39.** (1) The Bank may with the approval of His Majesty in council, by written notice to the principal place of business in Tonga of each financial institution and by publication in the Gazette, specify the reserves required to be maintained by way of cash holdings or deposits with the Bank or by both in such proportions as the Bank may specify. The reserves shall be the same for all financial institutions of the same class and shall not exceed 25 percent of deposit and other similar liabilities which may be specified by the Bank.

(2) The Bank may pay interest on all or part of the reserves specified under section (1).

(3) The Bank may specify different reserve ratios for different classes of liabilities, and may specify the method of their computation.

(4) The initial specification of reserves required under subsection (1), or any increase thereof, shall be effective only after at least 30 days notice thereof has been given and shall not relate to a period prior to the date of notice.

(5) The Bank may impose on any financial institution which fails to maintain the reserves specified under subsection (1) an interest charge not exceeding one tenth of one percent of the amount of the deficiency in such reserves for every day on which the deficiency continues.

**Regulation of interest and credit.**

**40.** (1) The Bank may, with the approval of His Majesty in Council, specify by publication in the Gazette and by written notice to the principal place of business in Tonga of each financial institution --

- (a) the maximum or minimum, or maximum and minimum rates of interest payable in respect of deposit and other similar liabilities and the method of computation thereof;
- (b) the permissible purposes, aggregate ceilings, maximum amounts beyond which the approval of the Bank is necessary, the maximum maturities, and maximum and/or minimum rates of interest chargeable in respect of --
  - (i) the making of advances, whether by loans or overdrafts, and investments;
  - (ii) the discounting of bills of exchange, promissory notes and other commercial or financial paper;
  - (iii) the issuing of letters of credit;
  - (iv) the granting of acceptances and other forms of credit;

- (c) the minimum cash margin or security required in respect of the items enumerated in paragraph (b):

Provided that any increase in such cash margin or security shall only be effective after at least 30 days notice thereof has been given and shall not relate to a period prior to the initial date of notice.

(2) The specifications made under subsection (1) shall be the same for all financial institutions of the same class.

(3) With the approval of His Majesty in Council, the provisions of subsection (1) may be made applicable by the Bank, by publication in the Gazette and by written notice, to any person having as a principal object of his business the extension of credit.

(4) The Bank shall have authority to examine the accounts, books, and papers of an person who it has reason to suspect is extending or has extended credit in violation of subsection (3) and the refusal to submit those accounts, books and papers shall be prima facie evidence of a violation.

(5) Any financial institution which fails to comply with a requirement of subsection (1) may, for each violation and at the option of the Bank, be required to pay a charge not exceeding \$2,000 to the Bank; and upon being so required in writing the said sum shall be a civil debt and if not paid may be enforced by action in the Supreme Court.

(6) Any person to whom the provisions of subsection (1) has been made applicable pursuant to subsection (3) shall be guilty of an offence if --

- (a) that person is in breach of this section; or
- (b) that person supplies false information or fails to furnish, within a specified time, any information required by the Bank to satisfy it that that person is complying with this section.

(7) Any person guilty of an offence under subsection (6) shall be liable on conviction -

- (a) in respect of an offence under paragraph (a) thereof to a fine not exceeding \$2,000; or
- (b) in respect of an offence under paragraph (b) thereof to a fine not exceeding \$200 for every day during which the offence continues.

**41.** The Bank, with the approval of His Majesty in Council, may determine

**Foreign  
Exchange  
Position.**

- (a) the maximum amount of the balances which financial institutions may hold in foreign currencies generally or in any specified foreign currency; and
- (b) the maximum amount of indebtedness in foreign currencies generally or in any specified foreign currency which financial institutions may incur.

**Minimum holdings of unimpaired liquid assets.**

**42.** (1) The Bank may from time to time, with the approval of His Majesty in Council, by notice in writing to each financial institution and by publication in the Gazette, specify the minimum holdings of unimpaired liquid assets that financial institutions must maintain in relation to their operations in Tonga. The minimum shall be the same for all financial institutions of the same class and shall not exceed 35 percent of deposit and other similar liabilities.

(2) The Bank shall determine the composition and the method of computing the amounts of unimpaired liquid assets to be held by financial institutions.

(3) Any financial institution which fails to comply, within such reasonable time as the Bank may fix, with any requirement of subsection (1) shall be liable to pay, on being called upon to do so by the Bank, an interest charge not exceeding one tenth of one per cent of the amount of the deficiency for every day on which the deficiency continues.

**Local assets ratio**

**43.** (1) A financial institution shall maintain assets consisting of such claims payable in the currency of Tonga and other assets situated in the Kingdom in such minimum proportion of its deposits and other similar liabilities payable in the Kingdom as the Bank with the approval of His Majesty in Council may specify.

#### **PART IX – SUPPLY OF INFORMATION**

**Supply of information.**

**44.** (1) A financial institution shall furnish to the Bank such information regarding its business, or that of any related company in Tonga or elsewhere, as the Bank may require for the purposes of this Act.

(2) The Bank may require a certificate from the auditor of the financial institution verifying the accuracy of any information furnished under subsection (1).

(3) Every director and every manager of a financial institution which fails to provide the required information of a certificate from its auditor after a reasonable period of notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500 for every day during which the offence continues.

(4) If information provided under this section is false in any material particular, every director and every manager of the financial institution shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000, or imprisonment for not exceeding 2 years or both.

(5) Any person who is prosecuted in respect of any offence under this section shall have a good defence if he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to his position in the financial institution in respect of which the offence was committed.

(6) In subsection (1), “related company” means any body corporate which is or has at any relevant time been the financial institution’s subsidiary or holding company or a subsidiary of its holding company or a holding company of its subsidiary.

45. At the request of a financial institution the Bank may extend any period within which the financial institution is, in accordance with the provisions of this Act, obliged to furnish any document or information.

Extension of time limit for provision of documents and information.

#### **PART X – RELATIONS WITH AND FOR THE GOVERNMENT**

46. (1) The Bank shall be the principal banker, fiscal agent and depository for the Government; and may act in such capacities for any statutory corporation.

Bank to be principal banker, fiscal agent and depository for the Government.

(2) The Minister may request the Bank to render advice on the borrowing program of the government, to assist in specific borrowing negotiations, and to advise and furnish reports on matters relating to the purposes of the Bank.

(3) It shall be the duty of the Bank to inform and advise the Minister about any matter which in the opinion of the Bank is likely to affect the achievement of its purposes.

(4) It shall be the duty of the Bank to provide advisory services to the Minister on banking, monetary and external reserve matters, and to provide statistics pertaining thereto.

47. The Bank shall exercise, as agent or His Majesty’s Government, such powers or functions under any law relating to exchange control and the regulation of financial institutions as may be delegated to it.

Agent for the administration of Acts relating to banking and exchange control. Advances to Government and Statutory Corporations.

48. (1) Subject to the provisions of the General Loan & Stock Act -

(a) the Bank is expressly authorised to grant temporary advances to His Majesty’s Government for budgetary purposes on such terms and conditions as may be agreed between them and approved by His Majesty in

Council; and

- (b) the Bank may make advances to statutory corporations on such terms and conditions and against such security as may be agreed between them, and approved by His Majesty in Council.

(2) The Bank shall be consulted by the Ministry of Finance on the occasion of the preparation of the Government's budget with a view to reaching an understanding on the total amount of credit that may be expected to be extended by the Bank to the Government during the following financial year.

(3) The Bank is expressly authorized to make advances to the Government, on such terms and conditions as may be agreed between them, in respect of subscriptions and other payments resulting from, or incidental to, the membership of the Kingdom of Tonga in any international financial institution, the participation of Tonga in any account thereof or any transactions and operations undertaken in connection therewith.

(4) The Bank shall be informed by the Ministry of Finance, other government institutions, agencies and statutory corporations at any time that either domestic or foreign credit operations are contemplated; in the event that, in the opinion of the Board, such operations individually or collectively appear to be of a magnitude inappropriate to prevailing economic conditions, the Bank shall submit to His Majesty in Council a report drawing attention to the situation and recommending measures to rectify the situation.

Acquisition  
of Government  
securities etc.

**49.** The Bank may buy, sell or deal in notes, bills, stocks, securities or other evidence of indebtedness issued or guaranteed by His Majesty's Government, which were publicly offered for sale or form part of an issue which is being made to the public at the time of acquisition by the Bank and which mature in not more than 15 years.

Policy  
directives.

**50.** His Majesty in Council may issue to the Bank such written directives of a general nature as may be necessary to give effect to the economic policies of the Government, and the Bank shall comply therewith.

Depository  
and fiscal  
agency of  
international  
financial  
institutions  
and supranational  
organizations.

**51.** (1) Notwithstanding the provisions of section 6(4) of the Bretton Woods Agreements Act, 1985, the Bank shall from the day appointed under section 36, serve as the fiscal agency of Tonga for the purposes of the International Monetary Fund and as depository in Tonga for all the fund's holdings of its currency.

(2) The Bank may be designated as the depository of or the fiscal agency or institution through which dealings shall be conducted with other international financial institutions and supranational organisations of which the Kingdom of Tonga is a member.

## **PART XI – ACCOUNTS AND STATEMENTS**

Financial  
year.

**52.** The financial year of the Bank shall coincide with the financial year of His Majesty's Government.

Accounts

**53.** (1) The accounts of the Bank shall be audited by auditors appointed annually by His Majesty in Council.

(2) In its accounts, the Bank shall not be required to include the face value of any particular currency on issue that His Majesty in Council has specified by notice in the Gazette.

(3) Notwithstanding the provisions of subsection (1) His Majesty in Council may at any time require the Auditor General to examine and report on the accounts of the Bank or on any aspects of its operations, and the Bank shall facilitate such examination.

**54.** (1) The Bank shall, within 3 months after the close of each financial year, or such extended period as His Majesty in Council may permit, transmit to the Minister -

**Publication of accounts and annual report and monthly return.**

(a) a copy of the annual accounts certified by the auditors; and

(b) a report of its operations during that year.

(2) The Bank shall cause a copy of the annual accounts to be published in the Gazette.

(3) The Minister shall cause a copy of the annual accounts and the report of operations to be submitted to His Majesty in Council and thereafter to be laid before the Legislative Assembly at the first available opportunity.

(4) The Bank shall, as soon as may be after the last weekly balance day of each month, make up a return of its assets and liabilities as at the close of business on that day and send a copy of the return to the Minister and publish the return in the Gazette.

## **PART XII – GENERAL**

**55.** The Bank shall be exempt from all Government taxes and duties on its profits, purchases, operations, capital, property transactions and documents.

**Exemption from taxes and duties.**

**56.** Notwithstanding any provision to the contrary in any other law, the provisions of this Act relating to a financial institution shall apply to:

**Bank of Tonga and Tonga Development Bank.**

(a) the Bank of Tonga established under the Bank of Tonga Act, 1972.

(b) The Tonga Development Bank established under the Tonga Development Bank Act, 1977.

**57.** The Bank shall not, without the specific approval of His Majesty in Council, engage in trade, purchase the shares of any corporation or company, including the shares of any banking company or otherwise have an ownership interest in any commercial, agricultural, industrial, or other undertaking except such interest as the Bank may acquire in the course of satisfaction of debts due to it:

**Prohibited activities.**

Provided that all such interest acquired in the course of satisfaction of debts due to the Bank shall be disposed of at the earliest suitable opportunity.

- Prohibited names.** **58.** Save with the written consent of His Majesty in Council, no financial institution shall hereafter be authorized to do banking business in the Kingdom by a name which includes any of the words “Central”, “Kingdom”, “National”, “Reserve”, “Royal”, “State”, “Tonga”, or their equivalent in any other language.
- Bank holidays.** **59.** (1) If the Bank considers it necessary or expedient in the public interest, it may by order declare any day a non-business day for financial institutions.
- (2) Without prejudice to subsection (1), the Bank may in the event of cyclone, earthquake or other natural disaster declare in such manner as it considers appropriate any day a non-business day for financial institutions, which declaration may relate to any part of or to the whole of the Kingdom.
- (3) No financial institution shall transact any banking business with the public on any day declared to be a non-business day.
- (4) Any day declared to be a non-business day under this section shall not necessarily be a public holiday, except for the purposes of the Bills of Exchange Act, and nothing in this section shall be deemed to affect the provisions of the Public Holidays Act.
- Responsibility and communication.** **60.** The subject matter of this Act is within the sphere of responsibility of the Minister, who shall serve as the channel of communication between His Majesty in Council and the Bank.
- Regulations.** **61.** His Majesty in Council may make regulations, not inconsistent with this Act, generally for giving effect to this Act or for the conduct of the business of the Bank.

### **PART XIII – REPEAL**

- Repeal and Saving.** **62.** (1) The following enactments are hereby repealed:
- (a) The Treasury Notes Act;
  - (b) the Coinage Act;
  - (c) the Decimal Currency Act; and
  - (d) the Investment Fund Act.
- (2) Section 13 of the Contract Act shall not apply to the Bank or to any financial institution or to an person to whom section 40 applies.
- (3) Notwithstanding the repeal under subsection (1), all subsidiary legislation made thereunder and in force at the time of coming into force of this Act shall be deemed to have been made under this Act and shall continue in force until other subsidiary legislation shall be made by virtue of this Act.
- Application of other laws.** **63.** Notwithstanding any other law to the contrary, the provisions of the General Loan and Stock Act shall not apply to the Bank.

Passed in the Legislative Assembly this 3rd day of November, 1988.