



**TURKS AND CAICOS ISLANDS**

**CHAPTER 16.03**  
**BANKING (SPECIAL PROVISIONS) ORDINANCE**  
**and Subsidiary Legislation**

**Revised Edition**  
showing the law as at 31 December 2014

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

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**CHAPTER 16.03**

**BANKING (SPECIAL PROVISIONS) ORDINANCE**

ARRANGEMENT OF SECTIONS

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**CHAPTER 16.03**

**BANKING (SPECIAL PROVISIONS) ORDINANCE**

*(Ordinance 4 of 1979)*

AN ORDINANCE TO MAKE FURTHER PROVISION FOR THE PROCEDURE FOR THE MAKING OF APPLICATIONS FOR THE GRANTING OF CERTAIN LICENCES UNDER THE BANKING ORDINANCE , TO CONFER POWER TO DESIGNATE AN AREA AT AN AIRPORT WITHIN WHICH CUSTOMERS OF CERTAIN BANKS SHALL BE ENTITLED TO CERTAIN PRIVILEGES, AND FOR OTHER MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH.

**Commencement**

*[24 July 1979]*

**Short title**

1. This Ordinance may be cited as the Banking (Special Provisions) Ordinance.

**Interpretation**

2. In this Ordinance, unless the context otherwise requires—

“banking business”, “company” and “oversea banking licence” have the same meanings respectively as are given to those terms in the Banking Ordinance;

“designated airport” means an airport designated under section 7;

“in-transit area” means the area at a designated airport as defined by order made under section 7;

“licence” means an oversea banking licence;

“licensee” means the holder of an oversea banking licence;

“officer” in relation to a company includes any director, managing director, alternate director or secretary, by whatever name called;

“special licence” means a special licence issued under section 3;

“special licensee” means the holder of a special licence.

### **Issue and cancellation of special licence**

**3.** (1) For the purpose of this Ordinance the Governor acting in his discretion may grant to a company which is incorporated or registered in the Islands a special licence to permit such company to exercise the powers and perform the functions and have the privileges hereafter in this Ordinance provided. When such a special licence has been issued and is still in force no other licence shall be issued to any other company under the provisions of this section:

Provided that no special licence shall be issued to any company of which more than ten *per centum* of the issued share capital is represented by bearer securities transferable by delivery only.

(2) A special licence granted under subsection (1) shall be issued subject to such conditions, and shall be valid for such period (not exceeding ten years in the first instance) as may be specified therein:

Provided that, if the Governor is satisfied that an extension of the term of a special licence is in the public interest, the period of validity of a special licence may be extended by the Governor from time to time, subject to such further or altered conditions as the Governor may determine, for such further period or periods, not exceeding five years at any one time, as the Governor may direct.

(3) Any company which desires to obtain a special licence shall apply to the Governor for the same and shall supply such particulars of its officers and of its shareholding and any other relevant information as the Governor may require. If any such application by a company is refused by the Governor no reason shall be given for such refusal and no appeal shall lie from such refusal.

(4) Notwithstanding the provisions of subsection (2) the Governor may at any time cancel a special licence—

- (a) if he is satisfied that the licence was obtained as a result of misleading, false or fraudulent representations, or in consequence of any incorrect information (whether such information was supplied wilfully or otherwise);
- (b) if the special licensee has failed to perform any of its obligations imposed under the provisions of this Ordinance or is in breach of any condition imposed under the terms of the special licence;
- (c) if any officer of the company, or person responsible for the management of any office or premises of the company has been

convicted (whether within or without the Islands), and has not successfully appealed against that conviction, of any offence punishable by imprisonment for six months or longer without the option of a fine, whether or not that penalty or some lesser penalty was in fact imposed in the particular case, or of any offence against the customs laws of the Islands or of any other country;

(d) if any director of the company has become bankrupt or has made an arrangement with his creditors;

(e) if he considers that it is in the public interest so to do:

Provided that prior to the cancellation of a special licence in any case under the provisions of paragraph (a), (b), (c), (d), or (e), the Governor shall inform the special licensee in writing of the grounds upon which it is considered that the special licence ought to be cancelled and shall give the special licensee an opportunity to show cause, within a specific time, why the licence should not be cancelled. If the special licensee fails to make representations within the specified time or if the representations made are considered by the Governor to be inadequate, the Governor may cancel the special licence and no appeal shall lie from any decision so to do, except upon the grounds of failure to comply with the requirements of this subsection, in which case an appeal shall lie to the Supreme Court.

#### **Restriction on assignment of special licence**

4. A special licence shall not be assignable except with the prior consent of the Governor and subject to such conditions (if any) as the Governor may determine.

#### **Fees**

5. Upon the issue or the extension of the term of a special licence, the special licensee shall pay to the Treasurer a fee of \$5,000, and also an annual fee during the term of validity of the licence, or any extension thereof, of \$5,000 for the first year, \$10,000 for the second year and \$15,000 for the third year:

Provided that the Governor, by order, may alter up to a maximum of one hundred *per centum* the fee payable upon the issue or any extension of the term of a special licence or, at any time, not being less than three years after the date of issue of a special licence, may alter up to a maximum of fifty *per centum* the amount of the annual fee payable in respect thereof.

#### **Procedure on application for oversea banking licence**

6. (1) Notwithstanding the provisions of section 5 of the Banking Ordinance, but subject to subsection (3) of this section, any application made under the said section 5 for the issue of an oversea banking licence, in a case in which the applicant proposes to carry on banking business within the in-transit area of a designated airport, shall be submitted to the special licensee for transmission to the Governor with such comments or recommendations as the special licensee desires to make thereon. All such applications received by the

special licensee shall be forwarded to the Governor whether or not recommended by the special licensee after the applicant has signed a contract with the special licensee in a form approved by the Governor:

Provided that the Governor shall not issue an oversea banking licence under the Banking Ordinance, to operate within the in-transit area, unless the application for the same has been submitted through the special licensee.

(2) The Governor, upon receipt of an application forwarded by the special licensee under subsection (1) shall deal with the application in accordance with the provisions of the Banking Ordinance, and may require from the applicant such further information (if any) as he considers desirable and shall take account of, but shall not be bound to accept, any recommendations or comments made with respect to the application by the special licensee.

(3) The Governor shall not issue any oversea banking licence in pursuance of any application submitted contrary to the provisions of subsection (1) unless at the date of the application no special licence is in force.

### **Designation of airport**

7. The Governor by order may designate an airport for the purposes of this Ordinance and in any such order shall define the boundaries of the in-transit area of that airport for the purposes of this Ordinance.

### **Acquisition of land for use of special licensee or licensee**

8. (1) The special licensee or any licensee may acquire, by purchase or lease as the Governor may determine, such area or areas of Crown land in the designated airport as appear to the Governor to be reasonably necessary for the purposes of their respective functions at such airport under the provisions of this Ordinance or the Banking Ordinance.

(2) The purchase price or rent payable, as the case may be, in respect of any land acquired under subsection (1) shall not exceed the fair market value, but if any dispute shall arise as to what is the fair market value, in any particular case, the value shall be determined by an independent valuer appointed by agreement between the parties, or, in default of agreement as to the selection of such valuer, the matter shall be referred to arbitration under the provisions of the Arbitration Ordinance.

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**SOUTH CAICOS INTERNATIONAL AIRPORT DESIGNATION ORDER**  
– SECTION 7

*(Legal Notice 19/1979)*

***Made by the Governor.***

**Short title**

**1.** This Order may be cited as the South Caicos International Airport Designation Order.

**Designation of airport**

**2.** (a) The South Caicos international airport is hereby designated an airport for the purposes of the Banking (Special Provisions) Ordinance.

(b) The in-transit area of the terminal building situated at the South Caicos international airport shall be the area designated as the in-transit and international departure lounge and such areas that are contiguous and have direct access to it.

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