

OBJECTS AND REASONS

This Bill would provide for the regulation of the providers of international corporate and trust services and for related matters.

Arrangement of Sections

Section

PART I

Preliminary

1. Short title.
2. Interpretation.
3. Application of Act.
4. Objectives of Act.
5. Functions of Director.

PART II

Licensing Requirements for International Service Providers

6. International service provider to be licensed.
7. Application for and issue of licence.
8. Duration of validity and renewal of licence.
9. Director may refuse licence or renewal in public interest.

Section (Cont'd)

10. Lost, defaced or destroyed licence.
11. Licensee to display and produce licence.
12. Change in status of licensee.
13. Surrender of licence by licensee.

PART III

Duties of International Service Providers

14. Records to be kept.
15. Accounts and audits.
16. Provision of information to the Director.
17. International service provider to notify Director of legal and other proceedings.
18. International service provider to notify Director of merger and cessation of business.
19. International service provider to notify Director of client's circumstances.
20. Insurance.
21. Code of Practice.
22. International service provider not to act to detriment of clients or public.
23. Advertising by international service provider.

Section (Concl'd)

PART IV

Administration and Enforcement

24. Examination of licensees.
25. Sanctions and other measures in respect of licensees.
26. Pecuniary penalty.
27. Suspension and revocation of licence.
28. Pretending to be a licensee.
29. Fraudulently procuring a licence.
30. False or misleading information and non-disclosure of material facts.

PART V

Miscellaneous

31. Registers of licences.
32. Director may issue guidelines.
33. Minister may make regulations.
34. Consolidated Fund.
35. Transitional provisions.
36. Exemption.
37. Act binds Crown.
38. Commencement.

SCHEDULE

BARBADOS

A Bill entitled

An Act to regulate the providers of international corporate and trust services.

ENACTED by the Parliament of Barbados as follows:

PART I

Preliminary

Short title. **1.** This Act may be cited as the *International Corporate and Trust Service Providers Act, 2010*.

2. In this Act,

Interpreta-
tion.

"affiliate" has the meaning assigned to it by section 448 of the
Companies Act;

Cap. 308.

"articles" has, in relation to

(a) a company, the meaning assigned to it by section 2(1)(a) of
the *Companies Act*; and

Cap. 308.

(b) a society, the meaning assigned to it by section 2(a) of the
Societies With Restricted Liability Act;

Cap. 318B.

"business" means the business of providing international services;

"client" means the recipient or potential recipient of an international
service;

"company" has the meaning assigned to it by section 2(1)(b) of the
Companies Act;

Cap. 308.

"Director" means the Director of International Business;

"document" includes

(a) anything on which there is writing;

(b) a map, plan, drawing or photograph; and

(c) information recorded or stored by means of any tape recorder,
computer or other device and any material subsequently
derived from the information so recorded or stored;

"firm" has the meaning assigned to it by section 6 of the *Partnership*
Act;

Cap. 313.

"foreign sales corporation" has the meaning assigned to it by section 2(1)(a)
of the *Barbados Foreign Sales Corporation Act*;

Cap. 59C.

Cap. 77. "international business company" has the meaning assigned to it by section 3 of the *International Business Companies Act*;

"international corporate service" means a service related to the licensing of a company or society to operate as an international entity, other than as an international trust;

"international corporate service provider licence" means a licence issued pursuant to section 7(1)(a) which authorises the licensee to provide an international corporate service;

"international entity" means

- (a) an international business company;
- (b) a foreign sales corporation;
- (c) an international society; and
- (d) an international trust;

"international service" means an international corporate service or an international trust service;

"international service provider" means a person who engages in the business of providing international services;

Cap. 318B. "international society" has the meaning assigned to it by section 2(b) of the *Societies With Restricted Liability Act*;

Cap. 245. "international trust" means a trust to which the *International Trusts Act* applies by virtue of section 4 of the Act;

"international trust service" means a service related to the registration of an international trust;

"international trust service provider licence" means a licence issued pursuant to section 7(1)(b) which authorises the licensee to provide an international trust service;

"licence" means an international corporate service provider licence or an international trust service provider licence;

"licensee" means a person who holds a licence;

"Minister" means the Minister to whom responsibility for international business is assigned;

"officer" has, in relation to a company, the meaning assigned to it by section 2(1)(f) of the *Companies Act*; Cap. 308.

"person" includes an individual, a firm, a body corporate and a society;

"society" means a society with restricted liability organised pursuant to section 5 of the *Societies With Restricted Liability Act* but does not include an international society. Cap. 318B.

3. This Act applies to international service providers who provide international services for profit. Application of Act.

4. The objectives of this Act are to Objectives of Act.

- (a) promote and maintain high standards of conduct, ethics and competence in the provision of international services;
- (b) ensure that international service providers adhere to modern, internationally acceptable standards of best practice;
- (c) provide for the establishment of procedures and policies to be followed by international service providers to enable international service providers to
 - (i) know and be able to identify and verify the identity of, each client; and

- (ii) exercise due diligence in the provision of international services;
- (d) promote the operation of international entities in Barbados;
- (e) protect the interests of international entities and international service providers through the licensing and supervision of international service providers;
- (f) safeguard the reputation of Barbados as a premier jurisdiction for the operation of international entities; and
- (g) detect and prevent any illegal activity within the international services sector and in particular, money laundering and financing of terrorism.

Functions
of Director.

5. (1) The Director shall, subject to the general direction and control of the Minister, be responsible for the administration of this Act.

(2) Without prejudice to the generality of subsection (1), in furtherance of the responsibility under that subsection, the Director shall

- (a) monitor and examine the businesses of international service providers to determine whether international service providers are in compliance with this Act; and
 - (b) receive and investigate any complaints made against international service providers and take appropriate action in respect of the complaints.
- (3) The Director may require from any person, information or expert advice, relevant to the functions of the Director.

PART II

*Licensing Requirements for International
Service Providers*

6. (1) No person shall provide an international service except in accordance with a licence issued to the person pursuant to this Act.

International
service
provider to
be licensed.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 2 years or to both and where the offence is a continuing one, to a further fine of \$8 000 for every day or part of a day during which the offence continues after a conviction is first obtained.

7. (1) A person may, in the prescribed form, apply to the Director for a licence to provide

Application
for and issue
of licence.

(a) an international corporate service; or

(b) an international trust service.

(2) An applicant shall submit with the application such information and documents as the Director may require to determine whether a licence should be issued to the applicant.

(3) Where the Director is satisfied that an applicant

(a) is a fit and proper person to provide an international service;

(b) has the financial standing necessary to operate the business;

(c) is or has a representative who is resident in Barbados; and

(d) is not an international entity,

the Director shall, in the prescribed form and upon payment of the prescribed fee, issue a licence to the applicant authorising the applicant to provide the international service in respect of which the application was made.

(4) Notwithstanding subsection (3), where the applicant is a firm, society or company, the Director shall not consider the applicant to be a fit and proper person to provide an international service unless the Director is satisfied that the partners, managers, members, directors and officers, as the case may be, of the firm, society or company, are fit and proper persons to provide an international service.

(5) The Director shall, in determining whether a person is a fit and proper person to provide an international service, take into account the following factors:

- (a) the educational and professional qualifications of the person;
- (b) whether the person is a member of a professional or other relevant body;
- (c) the knowledge of the person of the legal and other professional responsibilities assumed or likely to be assumed;
- (d) any evidence that the person has contravened any law designed to protect persons from incompetence, negligence, malpractice, dishonesty, violence or the conduct of bankrupts or otherwise insolvent persons;
- (e) the procedures the person uses or is likely to use to vet clients; and
- (f) whether the interests of clients will be served if the person
 - (i) assumes the office that he is likely to hold; or
 - (ii) continues to hold the office that he currently holds.

(6) For the purpose of this section, the following are residents of Barbados

- (a) an individual ordinarily resident in Barbados; or
- (b) a body incorporated, organised or registered in Barbados, the majority of the shares, quotas or other ownership of which is beneficially held by persons ordinarily resident in Barbados.

(7) The Director may

- (a) attach to the licence of a licensee, such terms or conditions; or
- (b) vary or amend the licence of a licensee in such manner,

as may be necessary to give effect to this Act.

(8) The Director shall set out in a licence, any terms or conditions attached to the licence pursuant to subsection (7).

(9) A licence shall not be transferred from one person to another.

8. (1) A licence remains valid, unless suspended, revoked or surrendered, until 31st December in the year in which it was issued and may be renewed annually. Duration of validity and renewal of licence.

(2) A licensee may, in the prescribed form, apply to the Director for the renewal of a licence and shall submit with the application such information and documents as the Director may require to determine whether the licence should be renewed.

(3) Where the Director is satisfied that the applicant

- (a) continues to satisfy the requirements of this Act for the issue of a licence; and
- (b) is in compliance with the obligations of the applicant under the *Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2010*, Act 2010-

the Director shall, in the prescribed form and upon payment of the prescribed fee, renew the licence of the applicant.

(4) Notwithstanding subsection (1), where a licensee applies for renewal of a licence before 31st December in a certain year but the Director does not determine the application before that date

(a) the licence remains valid until the Director determines the application; and

(b) any renewal granted in such a case shall be

(i) deemed to be; and

(ii) recorded as

effective from 1st January of the following year.

Director may refuse licence or renewal in public interest.

9. Notwithstanding sections 7(3) and 8(3), the Director may refuse to issue or renew a licence in the public interest.

Lost, defaced or destroyed licence.

10. A licensee whose licence is lost, defaced or destroyed, may, in the prescribed form and upon payment of the prescribed fee, apply to the Director for its replacement.

Licensee to display and produce licence.

11. A licensee shall display his licence, at the registered office or, in the absence of a registered office, the principal place of business of the licensee, in a conspicuous place that is open to the public.

Change in status of licensee.

12. (1) Where a change referred to in subsection (4) is intended, a licensee shall give the Director written notice of the change at least one month prior to the intended date of the change.

(2) Notwithstanding subsection (1), the licensee may give the Director written notice of the departure of

(a) a partner of a firm;

(b) a manager or member of a society; or

(c) a director or officer of a company,
within one month after the departure.

(3) Where the Director receives notice of a change, the Director may require the licensee to furnish additional information or documents in respect of the change.

(4) For the purpose of this section "change" means, in a case where a licensee is

(a) an individual, a change in respect of

- (i) the name under which the licensee provides international services; or
- (ii) the address of the principal place of business of the licensee;

(b) a firm, a change in respect of

- (i) the name or address of the principal place of business; or
- (ii) the partners
of the firm;

(c) a society, a change in respect of

- (i) the name or address of the registered office;
- (ii) the articles;
- (iii) the ownership of the quotas; or
- (iv) the managers and members
of the society; or

- (d) a company, a change in respect of
 - (i) the name or address of the registered office;
 - (ii) the articles;
 - (iii) the ownership of the majority of the shares;
 - (iv) the beneficial ownership of the majority of the shares; or
 - (v) the directors or officers,of the company.

Surrender of
licence by
licensee.

13. A licensee whose licence has been revoked or who ceases to engage in the business shall surrender the licence to the Director.

PART III

Duties of International Service Providers

Records to
be kept.

14. (1) An international service provider shall keep accurate records in respect of his business including

- (a) accounting records; and
- (b) records on clients.

(2) The international service provider shall retain the records made pursuant to subsection (1), except records made pursuant to subsection (1)(b), for at least 5 years from the date of the making of the record.

(3) The international service provider shall retain the records made pursuant to subsection (1)(b) for at least 5 years from the date on which an international entity ceases to be the client of the international service provider.

(4) Where the international service provider is unable to keep records pursuant to subsection (1), the international service provider shall give the Director written notice of the inability to do so and the reason for it as soon as practicable.

15. (1) An international service provider whose gross revenue or assets exceed \$1 000 000 as shown on the most recent financial statement of the international service provider shall

Accounts and audits.

(a) ensure that the accounts of the business are audited annually and at such other times as the Director may require, by an auditor who satisfies the requirements of section 153 of the *Companies Act*; and

Cap. 308.

(b) submit to the Director, within 3 months of the end of the financial year, or within such longer period as the Minister may permit, a statement of the audited accounts.

(2) For the purposes of subsection (1), the gross revenue and assets of an international service provider include the gross revenues and gross assets of the affiliates of the international service provider.

16. Without prejudice to any other provision of this Act, an international service provider shall

Provision of information to the Director.

(a) deliver to the Director at such times as the Director may require, any of the books, records and documents that are required to be kept by the international service provider under this Act; and

(b) provide the Director with such information as the Director may require for the proper administration and enforcement of this Act.

- International
service
provider to
notify
Director of
legal and
other
proceedings.
- 17.** An international service provider shall give the Director written notice as soon as practicable where
- (a) a judgment in civil proceedings is given against the international service provider in an amount that exceeds the liability insurance coverage of the international service provider;
 - (b) the international service provider or an employee, member, manager, director, officer or affiliate of the international service provider is convicted of an offence which involves
 - (i) any business including that of providing an international service;
 - (ii) the formation, management or administration of a firm, society or body corporate;
 - (iii) bankruptcy or insolvency; or
 - (iv) fraud or dishonesty;
 - (c) a summons, warrant or other order of court is issued or made in respect of the international service provider or an employee, member, manager, director, officer or affiliate of the international service provider, pursuant to the *Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2010*, the *Drug Abuse (Prevention and Control) Act*, the *Anti-Terrorism Act* or any other enactment that may be prescribed by the Minister by Order;
 - (d) an official inquiry is made into the affairs of the international service provider;
 - (e) the international service provider is refused a licence or other legal authorisation in respect of any business other than that of providing an international service or such a licence or other legal authorisation has been revoked or suspended; or
- Act 2010-
Cap. 131.
Cap. 158.

- (f) a director, manager, secretary or other officer of the international service provider is formally sought to be disqualified or is disqualified from holding office as a director, manager, secretary or other officer of a company.

18. (1) An international service provider shall give the Director written notice at least one month prior to the event where

International service provider to notify Director of merger and cessation of business.

- (a) a merger or take-over in respect of the business is intended; or
- (b) the international service provider intends to cease to operate the business.

(2) The international service provider shall give the Director written notice as soon as practicable where

- (a) the international service provider is no longer able to continue to operate the business;
- (b) action is initiated to dissolve or wind up the international service provider;
- (c) a receiver, liquidator or administrator is appointed in respect of the international service provider; or
- (d) composition or arrangement is made with the creditors of the international service provider.

(3) The international service provider shall, in any case referred to in subsection (1)(b) or (2)

- (a) arrange for the orderly winding up or transfer of the business; and
- (b) submit with the notice, details of the arrangements made.

- International service provider to notify Director of client's circumstances.
- 19.** (1) An international service provider shall
- (a) give the Director written notice as soon as reasonably practicable where criminal proceedings are instituted against a client or an officer or beneficial owner of a client or such a person is convicted of an offence; and
- (b) provide a brief summary of the case.
- (2) The international service provider shall give the Director written notice within one week after an international entity ceases to be a client of the international service provider.
- Insurance.
- 20.** An international service provider shall purchase and maintain a policy of insurance in an amount sufficient to cover the risk of losses in respect of the operation of his business.
- Code of Practice. Schedule.
- 21.** (1) An international service provider shall comply with the Code of Practice set out in the *Schedule*.
- Schedule.
- (2) The Minister may, by Order, amend the *Schedule*.
- International service provider not to act to detriment of clients or public.
- 22.** An international service provider shall not operate his business in a manner detrimental to the interest of the public or the clients of the international service provider.
- Advertising by international service provider.
- 23.** An international service provider shall ensure that any advertisement that the international service provider publishes or causes to be published
- (a) is not damaging to the good reputation of Barbados; and
- (b) contains a fair and accurate indication of the international service that the international service provider provides.

PART IV

Administration and Enforcement

24. (1) The Director may examine or, by instrument in writing, appoint a person to examine, the records and affairs of a licensee Examination of licensees.

- (a) to ascertain whether the licensee is in compliance with this Act or any directive of the Director;
- (b) where the Director is of the view that the licensee may be in contravention of this Act; or
- (c) where the Director considers that an examination is otherwise necessary for the proper administration and enforcement of this Act.

(2) The Director or any person appointed by the Director pursuant to subsection (1) may, in connection with an examination, require any auditor, director, employee or affiliate of a licensee to

- (a) furnish such information as the Director or the person may consider necessary for the purpose of the examination; and
- (b) produce for examination any books, records or other documents in his possession that contain or is likely to contain any such information.

(3) The Director may impose on a licensee such charges as may be prescribed to meet the expenses relating to the examination.

(4) An auditor, director or employee of a licensee who is required to make any disclosure to the Director or to a person appointed by the Director pursuant to subsection (1), shall not, by reason of making the disclosure, be regarded as being in breach of his duty to the licensee.

Sanctions
and other
measures in
respect of
licensees.

25. (1) The Director may take any action specified in subsection (2) where the Director is satisfied as to any of the following circumstances:

- (a) the licensee
 - (i) has ceased to engage in the business in respect of which the licence was issued;
 - (ii) is insolvent, has entered into liquidation or administration, has been wound up or is otherwise dissolved or may, in all likelihood, become insolvent, enter into liquidation or administration, be wound up or otherwise dissolved;
 - (iii) obtained his licence by the concealment or misrepresentation of any fact that the Director considers to be material to the application or suitability of the licensee for the issue of a licence;
 - (iv) no longer satisfies the requirements of this Act for the issue of a licence;
 - (v) is contravening or has contravened
 - (A) this Act; or
 - (B) a term or condition of his licence;
 - (vi) has failed to comply with a request or directive of the Director;
 - (vii) has been charged or convicted of an offence involving fraud or dishonesty;
 - (viii) has been guilty of any other type of misconduct;
 - (ix) is contravening or has contravened the *Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2010*; or
 - (x) is otherwise carrying on the business in an unlawful manner; or

Act 2010-

(b) revocation of the licence of the licensee is

- (i) necessary to protect the good reputation of Barbados;
or
- (ii) in the public interest.

(2) Where the Director is satisfied as to any of the circumstances set out in subsection (1) in respect of a licensee, the Director may, as the Director considers appropriate

- (a) issue a private warning or reprimand to the licensee;
- (b) give such directives to the licensee as the Director considers appropriate in the circumstances, including a directive
 - (i) requiring the licensee, within such period as the Director may specify, to take such remedial measures or action as the Director may specify;
 - (ii) requiring the licensee, within such period as the Director may specify, to cease engaging in such activity or behaviour as the Director may specify;
 - (iii) limiting, within such period as the Director may specify, any activities, functions or operations of the licensee as regards the business;
- (c) in accordance with section 26, impose on the licensee, a pecuniary penalty;
- (d) refuse to renew the licence of the licensee; or
- (e) in accordance with section 27, suspend or revoke the licence of the licensee.

(3) Subject to section 27, the Director shall not undertake any action specified in sub-paragraph (iii) of paragraph (b) or paragraph (c) or (d) of subsection (2) without first giving the licensee

- (a) written notice of the action that the Director intends to take; and
- (b) an opportunity to show cause as to why the action should not be taken.

(4) In this section “misconduct” includes any act or omission relating to the conduct of the business which is or is likely to be prejudicial to the public interest or the good reputation of Barbados.

(5) A licensee who is aggrieved by a decision of the Director under this section or section 26 or 27, may appeal to a Judge in Chambers against the decision.

Pecuniary
penalty.

26. (1) Where the Director is satisfied as to any of the circumstances set out in section 25(1) in respect of a licensee, the Director may impose on the licensee, a penalty of \$5 000.

(2) Where under this Act or by a directive of the Director, a licensee is required, by a specified time,

- (a) to take a certain measure or action; or
- (b) to cease a particular activity or behaviour,

and the Director is satisfied that the licensee has failed to do so, the Director may impose on the licensee, in addition to the penalty specified in subsection (1), an additional penalty of \$500 for every day or part of a day that the licensee failed to take the measure or action or cease the particular activity or behaviour.

- (3) The penalty referred to in subsection (2)
- (a) may be imposed from the day following the day by which the licensee was supposed to have taken the measure or action or ceased the particular activity or behaviour; and
- (b) shall not be imposed in respect of a period of more than 30 days.
- (4) Notwithstanding subsection (3), where the licensee
- (a) takes the measure or action; or
- (b) ceases the particular activity or behaviour,

the penalty referred to in subsection (2) shall cease to be imposed on the day preceding the day on which the licensee took the measure or action or ceased the particular activity or behaviour.

27. (1) Notwithstanding section 25(3)

- (a) the Director may suspend the licence of a licensee with immediate effect for a period not exceeding 30 days, where the Director considers that the immediate suspension of the licence is in the public interest or necessary to protect the good reputation of Barbados or that any delay in suspending the licence may be prejudicial to the public interest or the good reputation of Barbados;
- (b) where criminal proceedings are instituted against a licensee in respect of an offence referred to in section 25(1), the Director may suspend the licence of the licensee from the date of the institution of the proceedings or at any time thereafter; and
- (c) the Director may revoke the licence of the licensee upon conviction of the licensee for an offence referred to in section 25(1).

Suspension
and
revocation
of licence.

(2) Where the Director has, pursuant to subsection (1), suspended the licence of a licensee in connection with an offence, the suspension shall automatically cease upon the withdrawal or dismissal of the charge or, where there is more than one charge, upon the withdrawal or dismissal of all the charges.

Pretending to be a licensee.

28. (1) A person who, not being a licensee, knowingly holds himself out as a licensee is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 2 years or to both.

(2) In criminal proceedings pursuant to section 6 and subsection (1), the absence of the name of the person charged, from a list of licensees in a register kept pursuant to section 31, is *prima facie* evidence that the person is not a licensee.

Fraudulently procuring a licence.

29. A person who fraudulently procures a licence is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 2 years or to both.

False or misleading information and non-disclosure of material facts.

30. A person who, in respect of an application for the issue or renewal of a licence or any other matter governed by this Act, knowingly or recklessly

(a) makes a false statement of a material fact;

(b) omits to state a material fact; or

(c) makes a statement that contains information that is misleading in light of the circumstances in which it is made,

is guilty of an offence and is liable on summary conviction to a fine of \$25 000 or to imprisonment for one year or to both.

PART V

Miscellaneous

- 31.** (1) The Director shall cause to be kept Registers of
licences.
- (a) a register of the international corporate service provider licences; and
 - (b) a register of the international trust service provider licences,
issued pursuant to this Act.
- (2) The Director shall cause to be recorded in each register
- (a) the name and address of the registered office or principal place of business of a licensee;
 - (b) the date on which a licence is issued or renewed and the date on which it is due to expire;
 - (c) any refusal to issue or renew a licence;
 - (d) any suspension, revocation or surrender of a licence; and
 - (e) such other information as the Director considers appropriate.
- (3) Any person may, upon payment of the prescribed fee
- (a) inspect the registers; or
 - (b) require and obtain from the Director, certified or uncertified copies of any documents kept therein.
- 32.** (1) The Director may issue guidelines in respect of the standards to be observed and measures to be implemented by an international service provider in connection with his obligations under this Act. Director
may issue
guidelines.

(2) The Director shall make the guidelines and any amendments thereto available for inspection by the public, whether by electronic publication or otherwise.

(3) The Director shall, at such intervals as the Director determines, review the guidelines.

(4) The guidelines and any amendments thereto shall be published in the *Official Gazette*.

Minister
may make
regulations.

33. (1) The Minister may make regulations for giving effect to this Act and may provide in the regulations for contravention of any provision of the regulations to be an offence punishable on summary conviction by a fine not exceeding \$2 500.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations in particular, for

(a) the fees to be paid; and

(b) the forms to be used,

pursuant to this Act.

Consoli-
dated Fund.

34. Any sum collected pursuant to this Act shall be paid into the Consolidated Fund.

Transitional
provisions.

35. (1) Notwithstanding anything to the contrary in this Act, a person who immediately before the commencement of this Act was engaged in the business of providing international services for profit may, subject to subsection (2), continue to provide such services after the commencement of this Act.

(2) A person referred to in subsection (1) shall, within 6 months of the commencement of this Act, comply with all the provisions of this Act.

36. (1) Notwithstanding anything to the contrary in this Act but subject to subsections (2) and (3), a company that holds a licence issued pursuant to

Exemption.

(a) the *Financial Institutions Act*; or

Cap. 324A.

(b) the *International Financial Services Act*,

Cap. 325.

and provides an international service is exempt from the application of this Act, except for sections 17 and 19 to 23.

(2) Where in respect of a company referred to in subsection (1), the person who issued a licence to the company pursuant to an Act referred to in that subsection is satisfied that the company is contravening or has contravened any of the sections referred to in that subsection, the person shall have in relation to the contravention of the company, the powers set out in section 25(2)(a), (b) and (c).

(3) For the avoidance of doubt, notwithstanding subsection (1) where a company referred to in subsection (1) establishes or uses a subsidiary to provide an international service, this Act applies to the subsidiary.

37. This Act binds the Crown.

Act binds
Crown.

38. This Act shall come into operation on a day to be fixed by Proclamation.

Commence-
ment.

SCHEDULE

(Section 21)

CODE OF PRACTICE FOR INTERNATIONAL SERVICE PROVIDERS

1. An international service provider shall know and be able to identify and verify the identity of each client and where his clients are companies or societies, the beneficial owners of the companies or societies, as the case may be.

2. An international service provider shall, in respect of a client

(a) have a duly executed, written agreement with the client for the provision of international services; and

(b) ensure that the agreement includes provision for

(i) the calculation, charging, revision and recovery of fees;

(ii) the payment to the client of interest received on the money of the client; and

(iii) the conditions of termination of services and any consequential refund of fees.

3. An international service provider shall

(a) clearly designate and be able to identify any money or other assets that the international service provider holds for or on behalf of a client, except any monies paid to the international service provider by the client for

(i) an international service rendered; or

(ii) products sold or expenses incurred, by the international service provider,

as the monies or other assets of the client; and

- (b) unless the client instructs otherwise in writing, where the monies or other assets are held for more than 30 days, keep the monies or other assets separate from monies or other assets of the international service provider, in an account designated as the account of the client.
- 4. An international service provider shall
 - (a) acknowledge, record and investigate promptly and thoroughly, any complaint that the international service provider receives in respect of his business or a client;
 - (b) take appropriate action in respect of the complaint; and
 - (c) record the action taken.
- 5. An international service provider shall
 - (a) take reasonable steps to avoid conflicts of interests with and among clients; and
 - (b) where a conflict of interest arises, as soon as practicable
 - (i) give the clients concerned, written notice of the conflict; and
 - (ii) unless each client concerned agrees that the international service provider may continue to provide services to the other clients concerned, cease to provide services to all the clients concerned.
- 6. An international service provider who ceases to provide services to a client shall as soon as practicable
 - (a) give the client written notice of the fact;
 - (b) preserve the records of the client until the records are transferred to a successor of the international service provider or the client; and
 - (c) cooperate with the client and any successor to ensure a smooth transition of the business of the client.
- 7. An international service provider shall, in order to safeguard the interests of the client, make adequate contingencies to address business disruption.