

THE STATUTES OF THE REPUBLIC OF SINGAPORE

FINANCE COMPANIES ACT
(CHAPTER 108)

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Act 43 of 1967

Amended by
21 of 1969
33 of 1984
27 of 1994

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Finance Companies Act

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An Act to license and control finance companies and for matters connected therewith.

[10th January 1968]

PART I

PRELIMINARY

Short title. **1.** This Act may be cited as the Finance Companies Act.

Interpretation.
33/84
27/94.

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

“agreement” means an agreement whether formal or informal and whether express or implied;

“auditor” means any person approved by the Authority as a finance company auditor for the purposes of this Act;

Cap. 186.

“Authority” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act;

“capital funds”, in relation to a finance company, means the paid-up capital and published reserves of that company deduction having been made in respect of any debit balance appearing in the profit and loss account of the company;

Cap. 50

“company” means a company incorporated or registered under the Companies Act or pursuant to any corresponding previous written law;

“credit facilities” means —

(a) the granting by a finance company of advances, loans and other facilities whereby a customer of the finance company has access to funds or financial guarantees; or

(b) the incurring by a finance company of other liabilities on behalf of a customer;

“deposit” means a loan of money at interest or repayable at a premium but does not include a loan to a company or other body corporate upon terms involving the issue of debentures or other securities;

“depositor” means a person entitled, or prospectively entitled, to repayment of a deposit whether made by him or not;

“director” includes any person occupying the position of director of a finance company by whatever name called and includes a person in accordance with whose directions or instructions the directors of a finance company are accustomed to act and an alternate or substitute director;

“finance company” means any company licensed under this Act to carry on financing business, and all branches and offices in Singapore of such a company shall be deemed to be one finance company for the purposes of this Act;

“financing business” means the business of —

(a) borrowing money from the public, by acceptance of deposits and issuing certificates or other documents acknowledging or evidencing indebtedness to the public and undertaking to repay the money on call or after an agreed maturity period; and

(b) lending money to the public or to a company deemed to be related to the finance company by virtue of section 6 of the Companies Act (referred to in this Act as the related company) on the basis that the public or the related company undertakes to repay the money, whether within an agreed period of time or not, or by instalments, Cap. 50.

and includes the business of financing hire-purchase transactions arising out of hire-purchase agreements, as defined in the Hire-Purchase Act, where the money used, or to be used, for such business is borrowed from the public and such other business as the Authority may prescribe for the purposes of this Act; Cap. 125.

“Government securities” has the same meaning as in the Government Securities Act; Cap. 121A.

“officer”, in relation to a corporation, includes —

- (a) a director, secretary or employee of a corporation;
- (b) a receiver or manager of any part of the undertaking of the corporation appointed under a power contained in any instrument; and
- (c) the liquidator of a company appointed in a voluntary winding up;

“person” includes a corporation;

“public company” means a company incorporated in Singapore other than a private company;

“published reserves”, in relation to a finance company, means reserves which appear in the accounts of the finance company but does not include any reserves which are represented by the writing down of the value of assets or by provision for the depreciation of fixed assets or which are maintained for any specific purposes;

“share”, in relation to a finance company, means a share in the share capital of a finance company and includes an interest in such a share.

PART II

LICENSING OF FINANCE COMPANIES

Licensing of
finance
companies.

3.—(1) No financing business shall be transacted in Singapore except by a public company that is in possession of a valid licence granted by the Authority authorising it to conduct financing business in accordance with the provisions of this Act.

33/84.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 3 years or to both.

Use of words
“finance
company”.

4.—(1) No person or body of persons, whether incorporated or not, other than a finance company licensed under this Act shall, without the consent of the Authority, use the words “finance company” or any of its derivatives in any language, or any other words indicating

that it transacts financing business, in the name, description or title under which that person or body of persons is transacting business in Singapore or make or continue to make any representations to that effect in any bill-head, letter-paper, notice, advertisement or in any other manner whatsoever.

(2) Nothing in this section shall prohibit an association of finance companies formed for the protection of common interests from using the words “finance company” or any of its derivatives in any language as part of its name or description of its activities.

5.—(1) Whenever the Authority has reason to believe that a person is conducting financing business without a licence, the Authority may call for the books, accounts and records of that person in order to ascertain whether or not that person has violated or is violating any provisions of this Act, and any person wilfully refusing to submit such books, accounts and records shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both.

Examination of persons suspected of transacting financing business. 33/84.

(2) Upon the conviction of any person under subsection (1), a District Court shall have power to order the production of any books, accounts and records to the Authority and any person failing to comply with that order shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both and, in the case of a continuing offence, to a further fine not exceeding \$500 for every day during which the offence continues after conviction.

6.—(1) As from 10th January 1968, any public company proposing to conduct financing business in Singapore shall, before commencing any such business, apply in writing to the Authority for a licence under this Act.

Application for licence.

(2) In considering any application by a public company for a licence, the Authority may require to be satisfied as to —

(a) the financial condition of the company;

- (b) the character of the management of the company;
- (c) the adequacy of the capital structure and earning prospects of the company;
- (d) the objects of the company as disclosed in its memorandum of association;
- (e) the convenience and needs of the community to be served; and
- (f) whether the public interest will be served by the granting of a licence.

(3) The Authority may grant a licence with or without conditions, or refuse to grant a licence.

(4) The Authority may at any time vary or revoke any existing conditions of a licence or impose additional conditions.

33/84.

(5) Where a licence is granted subject to conditions, the finance company shall comply with those conditions and any finance company that fails to comply with any of the conditions of its licence shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine of \$2,000 for every day during which the offence continues after conviction.

33/84.

(6) Any person who knowingly or recklessly furnishes any document or information which is false or misleading in a material particular in connection with an application for a licence falling within subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

27/94.

(7) Every finance company shall pay such annual licence fee (including fees in respect of each of its branches) as the Authority may determine by notice in writing and in such manner as the Authority may determine.

Appeal to
Minister.
27/94.

6A. Any applicant who is aggrieved by the refusal of the Authority to grant a licence under section 6 (3) may, within 30 days of the decision of the Authority, appeal in writing to the Minister whose decision shall be final and shall be given effect to by the Authority.

7.—(1) Subject to this Act, a company shall not be granted or hold a licence unless —

Minimum capital requirements. 27/94.

(a) in the case of a finance company which holds a licence to carry on financing business on 18th January 1995, its capital funds are, subject to this section, not less than \$50 million; and

(b) in the case of a finance company which is granted a licence to carry on financing business after 18th January 1995, its issued and paid-up capital is not less than \$50 million and its capital funds are not less than that amount.

(2) Notwithstanding subsection (1) (a), the Authority may, at any time, after 8 years from 18th January 1995, by order require the issued and paid-up capital of a finance company to which that subsection applies to be not less than \$50 million within such time as may be specified in that order.

(3) Subject to subsection (4), a finance company to which subsection (1) (a) applies which has capital funds of less than \$50 million on 18th January 1995 shall be exempt from the requirement of that provision for 8 years from 18th January 1995 and shall not during that period allow its capital funds to be less than its capital funds on that date.

(4) If 20% or more of the issued and paid-up capital of a finance company is acquired by one or more persons who, alone or acting together with any associate or associates, by virtue of such acquisition becomes a substantial shareholder of the finance company on or after 18th January 1995, the finance company —

(a) shall have not less than \$50 million in issued and paid-up capital; and

(b) shall cease to be eligible for the exemption under subsection (3),

unless all the new substantial shareholders are finance companies each with capital funds of not less than \$50 million at the time of the acquisition.

(5) A finance company shall not reduce its paid-up capital during the currency of its licence without the approval of the Authority.

27/94.

(6) The Authority may restrict or suspend the operations of a finance company which fails to comply with subsection (2), (3), (4) or (5).

Cap. 50.

(7) In this section, “substantial shareholder” has the same meaning as in section 81 of the Companies Act.

Capital ratio.
27/94.

7A.—(1) The Authority may require every finance company to maintain capital funds in Singapore in proportion to its total assets or to every category of assets at such ratio or ratios as may from time to time be determined by the Authority by notice in writing.

(2) A finance company shall maintain a capital adequacy ratio of not less than 12% or such other percentage as may be determined by the Authority from time to time, as calculated in accordance with such form, content and manner as may be determined by the Authority by notice in writing.

(3) A finance company which on 18th January 1995 is unable to comply with the capital adequacy ratio requirement of 12% in subsection (2) shall, within one year from that date, comply with the ratio but the finance company’s capital adequacy ratio shall not at any time during that period be less than its capital adequacy ratio on 18th January 1995.

(4) The Authority may suspend or restrict the operations of a finance company which fails to comply with subsection (2) or (3) or any requirement of the Authority under subsection (1).

Restriction
on opening
of branches
of a finance
company.

8.—(1) No finance company shall open any new branch, agency or office, whether in Singapore or elsewhere, without submitting an application in writing to the Authority.

(2) In considering the application, the Authority may require to be satisfied by an inspection under section 33 or otherwise, as to —

(a) the financial condition of the company;

(b) the general character of the management of the company;

- (c) the adequacy of the capital structure and earning prospects of the company;
- (d) the convenience and needs of the community to be served; and
- (e) whether the public interest will be served by the opening or, as the case may be, change of location of the place of business.

(3) Upon being so satisfied as to the matters referred to in subsection (2), the Authority may —

- (a) grant the application; or
- (b) without assigning any reason, refuse to grant the application,

and the decision of the Authority shall be final.

(4) Any finance company that fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 for every day during which the default continues. 33/84.

9.—(1) No finance company carrying on business in Singapore shall be merged or consolidated with or acquire a majority interest in any other finance company without the prior approval of the Authority. Mergers, etc., of a finance company.

(2) In considering such an application, the Authority shall have power to call for such information as it may require.

(3) The Authority may approve or refuse the application.

10.—(1) This section and sections 11 and 12 shall apply to and in relation to all natural persons whether resident in Singapore or not and whether citizens of Singapore or not, and to all bodies corporate or unincorporate, whether incorporated or carrying on business in Singapore or not. Control of takeovers of finance companies incorporated in Singapore. 33/84.

(2) Without prejudice to section 9, no person shall, after 16th November 1984, enter into an agreement to acquire shares of a finance company that is incorporated in Singapore by virtue of which he would, if the agreement is carried out, obtain effective control of that finance company without first notifying the Authority of his intention to enter into the agreement and obtaining the approval of the Authority to his entering into the agreement.

- (3) For the purposes of this section —
- (a) a person shall be regarded as entering into an agreement by virtue of which he would obtain effective control of a finance company if the person alone or acting together with any associate or associates of that person would be in a position to control not less than 20% of the voting power in the finance company or would hold interests in not less than 20% of the issued shares of the finance company;
 - (b) a reference to an agreement by which a person would obtain effective control of a finance company that is incorporated in Singapore includes a reference to an agreement by which the person would acquire any interest in shares in the finance company where, upon the acquisition of those interests and of any other interests in other shares of the finance company that he has offered to acquire, he would have effective control of the finance company;
 - (c) a reference to a person offering to acquire interests in shares includes —
 - (i) a reference to a person making or publishing a statement, however expressed, that expressly or impliedly invites a holder of interests in shares to offer to dispose of interests in shares; and
 - (ii) a reference to a person taking part in or proposing to take part in negotiations with a view to the acquisition of shares;
 - (d) a person holds an interest in a share if he has any legal or equitable interest in that share and, without limiting the generality of the foregoing, an interest in shares shall have the meaning assigned to that expression in section 7 (6) to (10) of the Companies Act;
 - (e) a reference to the voting power in a finance company is a reference to the total number of votes that might be cast in the general meeting of the finance company;

- (f) the following persons are associates of a person:
- (i) the person's spouse or a parent or remoter lineal ancestor, son, daughter or remoter issue, brother or sister of the person;
 - (ii) any partner of the person;
 - (iii) any corporation of which the person is an officer;
 - (iv) where the person is a corporation — any officer of the corporation;
 - (v) any employee or employer of the person;
 - (vi) any officer of any corporation of which the person is an officer;
 - (vii) any employee of a natural person of whom the person is an employee;
 - (viii) any corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person or, where the person is a corporation, of the directors of the person;
 - (ix) any corporation in accordance with the directions, instructions or wishes of which, or of the directors of which, the person is accustomed or under an obligation, whether formal or informal, to act;
 - (x) any corporation in which the person who is in a position to control not less than 20% of the voting power in the corporation; and
 - (xi) where the person is a corporation — a person who is in a position to control not less than 20% of the voting power in the corporation.

(4) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

Arrangements affecting control of a finance company incorporated in Singapore. 33/84.

11.—(1) No person shall, after 16th November 1984, enter into any arrangement in relation to any finance company that is incorporated in Singapore by virtue of which he would, if the arrangement is carried out, obtain control of the finance company without first notifying the Authority of his intention to enter into the arrangement and obtaining the approval of the Authority to his entering into the arrangement.

(2) For the purposes of this section —

- (a) a person shall be regarded as entering into an arrangement by virtue of which he would obtain control of a finance company if he alone or acting together with an associate or associates would be in a position to determine the policy of the finance company;
- (b) the reference to entering into any arrangement is a reference to any formal or informal scheme, arrangement or understanding, whether expressly or by implication and without limiting the generality of the foregoing includes a reference —
 - (i) creating a trust whether express or implied; and
 - (ii) entering into a transaction or agreement, and references to an arrangement shall be construed accordingly; and
- (c) the reference to associates of a person has the same reference as under section 10.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

Control of substantial shareholding in finance companies incorporated in Singapore. 33/84.

12.—(1) No person shall, after 16th November 1984, enter into any agreement to acquire shares by virtue of which he would, if the agreement is carried out, acquire a substantial shareholding in a finance company that is incorporated in Singapore without first notifying the Authority of his intention to enter into the agreement and obtaining the approval of the Authority to his entering into the agreement.

(2) For the purposes of this section —

- (a) a reference to an agreement by which a person would acquire a substantial shareholding in a finance company includes a reference to an agreement by virtue of which the person would acquire any interests in shares in the finance company where, upon the acquisition by him of those interests or of those interests and of any interest in other shares in the finance company, being interests that he has offered to acquire, he would acquire a substantial shareholding in the finance company;
- (b) a reference to a person offering to acquire interests in shares and to a person having an interest in shares shall be construed in the same way as under section 10; and
- (c) a substantial shareholding has the same meaning as in section 81 of the Companies Act.

Cap. 50.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both.

13.—(1) The Authority may by notice in writing direct a finance company that is incorporated in Singapore to obtain from any shareholder of the finance company and to transmit to the Authority information —

- (a) as to whether that shareholder holds any voting shares in the finance company as beneficial owner or as trustee; and
- (b) if he holds them as trustee, to indicate, as far as it can, the person for whom he holds them (either by name or by other particulars sufficient to enable those persons to be identified) and the nature of their interest,

Power of Authority to require a finance company that is incorporated in Singapore to obtain information as to beneficial interests in shares of the finance company. 33/84.

and the finance company shall comply with that direction within such time as is specified in the notice.

(2) For the purposes of this section, “voting shares” has the same meaning as in the Companies Act.

(3) A finance company that fails to comply with a direction under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Amendment
of
constitution
of finance
company.

14.—(1) Every finance company that intends to alter its memorandum of association or articles of association shall, before proposing any resolution in this regard, furnish to the Authority for its approval particulars in writing (verified by a statutory declaration made by the secretary of the finance company) of the proposed alteration.

(2) The Authority may thereupon —

- (a) approve the proposed alteration without modification;
- (b) approve the proposed alteration with modification;
or
- (c) refuse to approve the proposed alteration.

(3) If the Authority approves the proposed alteration with modification, the finance company shall adopt the proposed alteration as so modified or not proceed with the proposed alteration and if the Authority refuses to approve the proposed alteration it may request the finance company to withdraw the proposed alteration and the finance company shall comply with the Authority's request.

33/84.

(4) Any finance company which fails to comply with the requirements of subsection (1) or with any request by the Authority made under subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 for every day during which the default continues after conviction.

Revocation
of licence.
33/84.

15.—(1) The Authority —

- (a) shall, by order, revoke the licence of a finance company if the company ceases to carry on the business for which it has been licensed in Singapore or goes into liquidation or is wound up or otherwise dissolved;
- (b) may, in its discretion, by order, revoke the licence of a finance company if, in its opinion, the finance company —
 - (i) has furnished information or documents to the Authority in connection with its application for a licence which is or are false or misleading in a material particular;

- (ii) is carrying on its business in a manner likely to be detrimental to the interests of its depositors;
 - (iii) has insufficient assets to cover its liabilities to its depositors;
 - (iv) carries on business while its paid-up capital (unimpaired by losses or otherwise) is less than \$500,000; or
 - (v) is contravening or has contravened the provisions of this Act; and
- (c) may, also in its discretion, by order, revoke the licence of a finance company —
- (i) if the finance company or any of its directors or officers holding a managerial or executive position in that finance company has been convicted of any offence under this Act; or
 - (ii) if, upon taking action under section 35 (2), it considers it in the public interest to do so.

(2) Before revoking any licence, the Authority shall give the finance company notice in writing of its intention to do so, specifying a date, not less than 21 days after the date of the notice, upon which the revocation will take effect and calling upon the finance company to show cause to the Authority why the licence should not be revoked.

(3) Where the Authority has revoked a licence under subsection (1), the Authority shall forthwith inform the finance company by notice in writing of the revocation.

16.—(1) Where an order of revocation becomes effective under section 15 —

- (a) notice of the revocation shall be published in the *Gazette*; and
- (b) the finance company shall, as from the date of the notice, cease to transact any financing business in Singapore except as may be approved by the Authority for the purpose of winding up its financing business.

(2) Subsection (1) (b) shall not prejudice the enforcement by any person of any right or claim against the finance company or by the finance company of any right or claim against any person.

Effect of
revocation of
licence.
33/84.

Publication
of list of
finance
companies.

17. The Authority shall cause to be published in the *Gazette* in the month of April in each year a list of all finance companies to which licences have been issued under this Act and if any licence is issued or revoked during the interval between the publication of two such lists, notice thereof shall also be caused to be published in the *Gazette*.

PART III

RESERVE FUNDS, DIVIDENDS, BALANCE-SHEETS AND INFORMATION

Maintenance
of reserve
fund by
finance
companies.
27/94.

18.—(1) Every finance company shall —

- (a) maintain a reserve fund;
- (b) transfer to that reserve fund out of the net profits of each year, after due provision has been made for taxation —
 - (i) so long as the amount of the reserve fund is less than 50% of the paid-up capital, a sum not less than 50% of those net profits;
 - (ii) so long as the amount of the reserve fund is not less than 50% but less than 100% of the paid-up capital, a sum not less than 25% of those net profits; and
 - (iii) so long as the amount of the reserve fund is 100% or more of the paid-up capital, a sum not less than 5% of those net profits.

27/94.

(2) Any finance company which fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine of \$2,000 for every day during which the offence continues after conviction.

Maintenance
of adequate
provision for
bad and
doubtful
debts.
27/94.

18A. Every finance company shall make provision for bad and doubtful debts and, before any profit or loss is declared, ensure that the provision is adequate.

19. No finance company shall pay any dividend on its shares until all its capitalised expenditure (including preliminary expenses, organisation expenses, share selling commission, brokerage, amount of losses incurred and any item of expenditure not represented by tangible assets) has been completely written off.

Restriction on payment of dividends by finance companies.

20.—(1) Every finance company shall exhibit in a conspicuous position in each of its offices and branches in Singapore —

Publication and exhibition of audited balance-sheet. 27/94.

(a) a copy of its latest audited annual balance-sheet and profit and loss account, together with any notes thereon, and a copy of the report of the auditors; and

(b) the full and correct names of all persons who are directors for the time being of the finance company.

(2) Every finance company shall, within 6 months after the close of each financial year or within such period as the Authority may approve, publish in at least 4 local daily newspapers, one each published in the Malay, Chinese, Tamil and English languages, a copy of its latest audited annual balance-sheet and profit and loss account, containing at least such information as the Authority may require by notice in writing.

27/94.

(3) The Authority may by notice in writing require a finance company to publish, in addition to its balance-sheet and profit and loss account under subsection (2), such additional information relating to the accounts of that finance company for any financial year as the Authority thinks fit.

27/94.

(4) A copy of the documents referred to in subsections (1) and (2) shall be sent to the Authority by the finance company, prior to its first publication in any newspaper under those subsections, together with a copy of the directors' report.

27/94.

(5) The annual balance-sheet and profit and loss account of the finance company referred to in subsections (1) and (2) and the half year interim profit and loss account of the finance company shall be in such form as the Authority may approve.

27/94.

27/94.

(6) The Authority may require any finance company to submit such further or additional information as it may consider necessary either by way of explanation, amplification or otherwise with regard to the balance-sheet and profit and loss account sent by that finance company under subsection (4) and that information shall be submitted within such period and in such manner as the Authority may require.

27/94.

(7) Any finance company which fails to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and, in the case of a continuing offence, to a further fine of \$1,000 for every day during which the offence continues after conviction.

Information and statistics to be furnished by finance companies.

21.—(1) Every finance company shall furnish to the Authority at such time and in such manner as the Authority may prescribe, all such information and data as the Authority may reasonably require for the proper discharge of the Authority's functions under the provisions of this Act.

(2) Nothing in this Act shall authorise the Authority to enquire specifically into the affairs of an individual depositor of a finance company and any information relating to the affairs of that individual depositor obtained by the Authority in the course of an inspection or investigation made under this Act shall be secret between the Authority and that finance company.

33/84.

(3) Every finance company that fails or neglects to furnish any information required by the Authority under subsection (1) and within the time specified by the Authority shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 for every day during which the default continues after conviction.

Monthly statements of advances, loans and credit facilities.
27/94.

21A.—(1) Every finance company shall send to the Authority, not later than 15 days after the last day of each month, a statement in the form determined by the Authority showing the particulars of all advances, loans and credit facilities granted by the finance company as at the end of that month to —

(a) any of the directors of the finance company;

(b) any firm in which the finance company or any of its directors is a partner, manager or agent;

- (c) any individual or firm of whom or of which any of the directors of the finance company is a guarantor;
- (d) any corporation that is related to the finance company;
- (e) any of the finance company's officers, employees or other persons receiving remuneration from the finance company (other than persons receiving remuneration in respect of their professional services);
- (f) any private or public company in which the finance company or any of its directors, officers, employees or other persons who receive remuneration from the finance company has an interest as a director, manager, agent or guarantor; or
- (g) any individual in whom, and any firm or company in which, any of the directors of the finance company has, directly or indirectly, such interest as is required to be declared under section 21B, other than those advances, loans and credit facilities, the particulars of which have been supplied pursuant to paragraphs (a) to (f).

(2) Where it appears to the Authority, on examination of the particulars supplied by a finance company under subsection (1), that any advance, loan or credit facility has been or may be granted to the detriment of the interests of the depositors of the finance company (referred to in this subsection as the advance, loan or credit facility), the Authority may as it thinks fit by notice in writing —

- (a) prohibit that finance company from granting any further advance, loan or credit facility to the borrowers which in the Authority's opinion may be detrimental to the interest of the depositors;
- (b) impose restrictions on that finance company in relation to the grant of any advance, loan or credit facility; or
- (c) direct that finance company to secure repayment of any advance, loan or credit facility.

(3) In this section —

(a) “director” includes the wife, husband, mother, father, son or daughter of a director; and

(b) whether a corporation is related to a finance company shall be construed in accordance with section 6 of the Companies Act.

Cap. 50.

Disclosure of
interest by
directors.
27/94.

21B.—(1) Subject to this section, every director of a finance company who is in any way, directly or indirectly, interested in an advance, loan or credit facility or proposed advance, loan or credit facility from that finance company, shall as soon as practicable declare the nature of his interest to the board of directors of that finance company and the secretary of the company shall cause the declaration to be circulated forthwith to all the directors.

(2) Subsection (1) shall not apply in any case where the interest of the director of a finance company consists only of being a member or creditor of a company which is interested in an advance, loan or credit facility or proposed advance, loan or credit facility from that finance company if the interest of the director may properly be regarded as not being a material interest.

(3) For the purposes of subsection (1), a general notice given to the board of directors of a finance company by a director to the effect that he is an officer or member of a specified company or a member of a specified firm and he is to be regarded as having an interest in any advance, loan or credit facility which may, after the date of the notice, be made to that company or firm shall be deemed to be a sufficient declaration of interest in relation to any advance, loan or credit facility so made if —

(a) it specifies the nature and extent of his interest in the particular company or firm;

(b) his interest is not different in nature or greater in extent than the nature and extent so specified in the notice at the time any advance, loan or credit facility is made; and

(c) it is given at a meeting of the directors or the director takes reasonable steps to ensure that it is brought up and read at the next meeting of the directors after it is given.

(4) Every director of a finance company who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with his duties or interests as director shall declare at a meeting of the directors of that finance company the fact and the nature, character and extent of such conflict.

(5) The declaration referred to in subsection (4) shall be made at the first meeting of the directors held —

(a) after he becomes a director of the finance company;
or

(b) if already a director, after he commences to hold the office or to possess the property.

(6) The secretary of a finance company shall cause to be brought up and read any declaration made under subsection (1) or (4) at the next meeting of the directors of that finance company after it is made, and shall record any declaration so made in the minutes of the meeting at which it was made or at which it was brought up and read.

(7) Any director who contravenes subsection (1) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

PART IV

REGULATION OF BUSINESS

22. Where a finance company has accepted money from any person as a deposit, the company shall within 2 months after the acceptance of the money issue to that person a document which acknowledges or evidences or constitutes an acknowledgment of the indebtedness of the company in respect of that deposit.

Acknowledgment of indebtedness.

23.—(1) No finance company shall —

(a) accept any deposit which is repayable on demand by cheque, draft or order drawn by a depositor on the finance company;

(b) deal in any foreign currency, gold or any other precious metal;

Dealings by finance companies and credit facilities and limits. 27/94.

- (c) acquire stocks, shares or debt or convertible securities of any financial, commercial, agricultural, industrial or other undertaking or government which are denominated in any foreign currency;
- (d) grant or permit to be outstanding to any one person or to any group of persons under the control or influence of any one person, any credit facilities if the aggregate amount of such credit facilities exceeds 25% of its capital funds or such other percentage not exceeding 100% of its capital funds as the Authority may approve;
- (e) grant substantial loans which in the aggregate exceed 50% of its total credit facilities or such other percentage as the Authority may from time to time determine; or
- (f) grant unsecured advances, unsecured loans or unsecured credit facilities —
 - (i) to any person or body of persons, whether incorporated or not, which in the aggregate and outstanding at any one time exceeds \$5,000; and
 - (ii) which in the aggregate and outstanding at any one time exceeds 10% of the capital funds of the finance company.

27/94.

(2) Notwithstanding the provisions of subsection (1) (b) and (c), a finance company with capital funds of not less than \$100 million may apply to the Authority for exemption from those provisions and the Authority may approve the application subject to —

- (a) the condition that the aggregate amount of foreign currency exposure of the finance company shall not at any time exceed 10% of its capital funds; and
- (b) any other condition which the Authority may think fit to impose.

27/94.

(3) Subsection (1) (d) shall not, for a period of 2 years from 18th January 1995, apply to any credit facility granted by a finance company before that date which does not

comply with that provision but the finance company shall not at any time during that period —

- (a) increase the amount of that credit facility; or
- (b) allow that credit facility to exceed 30% of the capital funds of the finance company.

(4) Subsection (1) (d) and (e) shall not apply to — 27/94.

- (a) transactions with the Government;
- (b) transactions with banks; or
- (c) any other type of transaction which the Authority may from time to time approve.

(5) Subsection (1) (f) shall not apply to the purchase of — 27/94.

- (a) any Government securities; or
- (b) any bonds issued by such statutory corporation as the Authority may, by notification in writing, determine.

(6) All the directors of a finance company shall be liable jointly and severally to indemnify a finance company against any loss arising from the making of any unsecured advance, loan or credit facility to — 27/94.

- (a) any of its directors, whether those credit facilities are obtained by its directors jointly or severally;
- (b) a firm in which that finance company or any of its directors has an interest as a partner, manager or agent, or any individual or firm of whom or of which any of that finance company's directors is a guarantor;
- (c) a company in which any of that finance company's directors, whether legally or beneficially, owns more than 50% of the issued capital or in which any of that finance company's directors controls the composition of the board of directors, but excluding any public company the securities of which are listed on the Stock Exchange of Singapore or any other stock exchange which the Authority may approve, and the subsidiaries of such public company; or

(d) a corporation that is deemed to be related to the finance company as described in section 6 of the Companies Act.

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27/94.

(7) In this section —

(a) “aggregate amount of foreign currency exposure” means the aggregate value of investments in securities denominated in foreign currencies which are listed on exchanges recognised by the Authority and holdings of foreign currencies;

(b) the reference to “director” in subsection (6) (a), (b) and (c) includes the wife, husband, father, mother, son or daughter of a director;

(c) “substantial loan” means any credit facility granted by a finance company to a single person or to any group of persons under the control or influence of a single person which in the aggregate exceeds 15% of the finance company’s capital funds;

(d) “unsecured advance”, “unsecured loan” or “unsecured credit facility” means any advance, loan or credit facility given without security, or in respect of any advance, loan or credit facility given with security, any part thereof which at any time exceeds the market value of the assets constituting that security, or where the Authority is satisfied that there is no established market value, on the basis of a valuation approved by it.

27/94.

(8) Any finance company which contravenes any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

Dealing by a finance company in its own shares, etc.

24.—(1) Except as is otherwise expressly provided by this Act, no finance company shall give, directly or indirectly and whether by means of a loan guarantee or the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase or subscription made or to be made by any person of, or for, any shares in the finance company or, where such company is a subsidiary, in its holding company, or in any way purchase, deal in or lend money on its own shares.

(2) Nothing in subsection (1) shall prohibit —

- (a) the provision by a finance company, in accordance with any scheme for the time being in force, of money for the purchase of or subscription for fully-paid shares in the finance company or its holding company, being a purchase or subscription by trustees of or for shares to be held by or for the benefit of employees of the company, including any director holding a salaried employment or office in the company; or
- (b) the giving of financial assistance by a finance company to persons, other than directors, bona fide in the employment of that company or of a subsidiary of that company with a view to enabling those persons to purchase fully-paid shares in the finance company to be held by themselves by way of beneficial ownership.

(3) If there is any contravention of this section, the finance company and every officer of that company who is in default shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year. 33/84.

(4) Nothing in this section shall operate to prevent the finance company from recovering the amount of any loan made in contravention of this section or any amount for which it becomes liable on account of any financial assistance given in contravention of this section.

25.—(1) No finance company shall engage, whether on its own account or on a commission basis, and whether alone or with others, in the wholesale or retail trade, including the import or export trade, except for the purpose of carrying on its financing business. Restrictions on trade by finance companies.

(2) Except as provided in this Act, a finance company shall not carry on any kind of business other than financing business.

26.—(1) No finance company shall acquire or hold any part of the share capital of, or otherwise have a direct interest in, any financial, commercial, agricultural, industrial or other undertaking exceeding in the aggregate 25% of the capital funds of that finance company except such Restrictions on investments by finance companies. 27/94.

shareholding as the finance company may acquire in the course of realising debts due to it, which shareholding shall, however, be disposed of at the earliest suitable moment.

27/94.

(2) Notwithstanding subsection (1), the percentage holding or interest referred to in that subsection may upon the application of a finance company to the Authority, and with the consent of the Authority, be increased to not more than 50% of the capital funds of that finance company.

Restrictions
on holding
immovable
property by
finance
companies.
27/94.

27.—(1) No finance company shall purchase or acquire any immovable property, or any right, title or interest therein exceeding in the aggregate at any one time 25% of the finance company's capital funds, except as may be reasonably necessary for the purpose of conducting its business or of housing or providing amenities for its staff, but this shall not prevent a finance company —

- (a) from letting part of any building which is used for the purpose of conducting its business; or
- (b) from securing a debt on any immovable property and in the event of default in payment of the debt, from holding that immovable property for realisation by sale or auction at the earliest suitable moment.

(2) This section shall not apply to such property as may from time to time be approved by the Authority.

(3) The Registrar of Titles in issuing any certificate of title or registering any assurance in the Registry of Titles and Deeds or any purchaser shall be exonerated from enquiring as to any matter or fact relating to the title of a finance company to, or to the power of a finance company in dealing with, any immovable property, or any right, title and interest therein, which has been purchased or acquired in contravention of the prohibition contained in this section and shall be protected from the effect of notice of any such matter or fact.

Control over
finance
companies
in the
acquisition of
shares in
companies.
33/84.

28.—(1) No finance company shall, after 16th November 1984, enter into an agreement to acquire the share capital of any company by virtue of which the finance company would, if the agreement is carried out, acquire or hold, directly or indirectly, an interest of 20% or more of the share capital of that company, without first notifying the Authority of its

intention to enter into the agreement and obtaining the approval of the Authority to its entering into the agreement.

(2) The Authority may approve the entering into the agreement with or without conditions or may disapprove it without giving any reasons.

(3) Subsection (1) shall not apply to an agreement by virtue of which the finance company would acquire an interest of 20% or more of the share capital in a company by way of enforcement of security to satisfy debts due to it by the company, if, upon making the acquisition, the finance company obtains the approval of the Authority to retain the shareholdings as an investment. In the event, however, that the Authority does not grant approval, the finance company shall dispose of the shareholdings at the earliest opportunity.

(4) In this section, “company” means a company whether incorporated in Singapore or elsewhere.

(5) A finance company that contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

29.—(1) Any finance company, if at any time called upon in writing by the Authority to do so, shall satisfy the Authority, by the production of such evidence or information as the Authority may require, that the finance company is not in contravention of any of the provisions of section 23, 26, 27 or 31.

Power of Authority to secure compliance with sections 23, 26, 27 and 31. 33/84.

(2) For the purpose of securing compliance with the sections referred to in subsection (1), the Authority may from time to time by notice in writing require any finance company to aggregate its assets, liabilities or profits, as the case may be, with the assets, liabilities or profits of all or any of the finance company’s related companies, as described in section 6 of the Companies Act, and the finance company shall comply with that requirement within such time as is specified in the notice.

Cap. 50.

(3) A finance company that fails to comply with any requirement of the Authority under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 for every day during which the default continues after conviction.

Notices to
finance
companies.
27/94.

30.—(1) The Authority may, if it appears to the Authority to be necessary or expedient in the public interest or the interest of the financial system, by notice in writing to finance companies give directions or impose requirements on or relating to the activities or operations of and standards to be maintained by finance companies.

27/94.

(2) Without prejudice to the generality of subsection (1), any notice under that subsection may be given in respect of —

- (a)** the revaluation of the assets of finance companies;
- (b)** the maintenance of credit files of borrowers and classification of loans, advances and credit facilities of a finance company;
- (c)** the restrictions on the granting of Singapore dollar credit facilities in whatever form or by whatever means to residents of Singapore where such facilities are to be used outside Singapore, or to non-residents;
- (d)** the appointment of directors, chief and deputy chief executive officers of a finance company;
- (e)** the code of conduct governing the manner and method by which a finance company solicits business and deals with its customers, the procedures for the reporting of transactions between a finance company and its employees, and conflicts of interest involving the finance company and its employees or involving the finance company and its customers;
- (f)** the maximum aggregate permissible percentage holdings by any class, category or description of persons of interests in shares of a finance company;
- (g)** the preparation by finance companies of profit and loss accounts and balance-sheets and the form and content thereof;
- (h)** the conditions under which finance companies can engage in the financing of trade and inventory;
- (i)** the forms, returns and submission of statistics for the purposes of this Act;
- (j)** the provision for and writing off of bad debts by a finance company.

(3) Every finance company shall comply with any direction or requirement imposed by any notice under this section. 27/94.

(4) Every notice in writing issued by the Authority before 18th January 1995 (other than a notice which was issued pursuant to another provision of this Act) shall, if such notice could have been issued under this section, be deemed to be so issued on that date. 27/94.

31.—(1) The Authority may, by order, prescribe —

Orders by
Authority.

- (a) the maximum rates of interest that finance companies shall pay on different types or classes of deposits;
- (b) the maximum amount or amounts, expressed as a percentage or percentages, of total assets that finance companies may hold in one or more types or classes of loans, or advances;
- (c) the minimum down payments and maximum maturity periods for different types or classes of loans, or advances granted by finance companies;
- (d) the maximum rates of interest or commission and other charges and the methods of computing such interest or commission and other charges that finance companies may impose on different types or classes of loans, or advances granted by them;
- (e) the maximum amount of loans or advances which finance companies may grant to any person or class of persons; and
- (f) the reserves to be maintained with the Authority.

(2) Any order made under subsection (1) shall apply uniformly to all finance companies, or to any class or classes of finance companies, and shall, together with its effective date, be published in the *Gazette*.

(3) Where a finance company has failed to maintain the reserves required by an order made under subsection (1) (f), the Authority may by notice in writing direct that finance company to make good the deficiency within the period specified in the notice. 27/94.

27/94.

(4) If the defaulting finance company fails to make good the deficiency within the period specified in the notice referred to in subsection (3), it shall be lawful, notwithstanding the provisions of any other written law, for the Authority to serve a notice in writing upon any bank with which the defaulting finance company has a credit balance, whether in current or deposit account, directing that bank to transfer to the Authority up to such amount as is specified in the notice as being equivalent to the amount of the deficiency in the minimum cash balances of the defaulting finance company required under subsection (1) (f) and the bank shall comply immediately with the requirements of that notice.

27/94.

(5) The Authority may, notwithstanding any notice given under subsection (3) or (4), impose on any finance company that fails to maintain the reserves required by an order made under subsection (1) (f) a penalty interest charge of \$100 per day or such larger amount as the Authority may determine for every day during which the finance company continues to fail to maintain such reserves.

PART V

MINIMUM LIQUID ASSETS

Minimum holdings of liquid assets by finance companies.

27/94.

32.—(1) Every finance company shall maintain a minimum holding of liquid assets, as defined in subsection (4).

(2) The minimum amount of liquid assets to be maintained by every finance company shall be determined from time to time by the Authority and shall be expressed in the form of a percentage or percentages which those assets shall bear to the liabilities of each finance company on account of deposits and other liabilities, either jointly or separately.

(3) The Authority shall prescribe the method of computing the amount of liquid assets to be held by finance companies.

27/94.

(4) For the purposes of this section, “liquid assets” means —

- (a) notes and coins that are legal tender in Singapore;
- (b) Government securities;

- (c) Government securities held under overnight repurchase agreements with banks in Singapore, approved primary and registered dealers in Government securities and the Post Office Savings Bank of Singapore established under the Post Office Savings Bank of Singapore Act; Cap. 237.
- (d) bills of exchange denominated in Singapore dollars accepted or endorsed by at least 2 banks in Singapore, which arise from genuine trade transactions and are payable within 3 months; and
- (e) such other assets as the Authority may from time to time specify by a notice in writing.

(5) Any finance company that fails to comply with any requirement of this section shall be liable, on being called upon to do so by the Authority (in addition to any other penalty that may be imposed under this Act), to pay a penalty interest charge of \$100 per day or such larger amount as the Authority may determine for every day during which the default continues and shall not while the default continues accept any deposits or enter into new commitments without the approval of the Authority. 33/84.

PART VI

INSPECTION AND CONTROL OF FINANCE COMPANIES

33.—(1) The Authority may, from time to time, inspect or cause to be inspected under conditions of secrecy, the books, accounts and transactions of any finance company and of any branch, agency or office outside Singapore opened by a finance company incorporated in Singapore. Inspection and investigation of finance companies and production of books, etc.

(2) The Authority may at any time make an investigation, under conditions of secrecy, of the books, accounts and transactions of a finance company, if the Authority has reason to believe that the finance company is carrying on its business in a manner detrimental to the interests of its depositors and other creditors or has insufficient assets to cover its liabilities to the public, or is contravening the provisions of this Act.

(3) The Authority may appoint any auditor, other than the auditor appointed by the finance company under section 205 of the Companies Act, to exercise the powers of the Authority under subsections (1) and (2). Cap. 50.

(4) For the purpose of an inspection or investigation under this section, a finance company shall afford the Authority access to its books, accounts and documents and shall give such information and facilities as may be required to conduct the investigation.

(5) No books, accounts and documents referred to in subsection (4) shall be required to be produced at such times and at such places as would interfere with the proper conduct of the normal daily business of that finance company.

33/84.

(6) If any book, account or document or information is not produced in accordance with subsection (4), the finance company concerned shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 and to a further fine of \$1,000 for every day during which the default continues after conviction.

Production
orders
against
finance
companies
to produce
material
relating
to drug
trafficking.
27/94.

33A.—(1) Notwithstanding section 21 (2), the Attorney-General or any person duly authorised by him in writing may, for the purpose of an investigation into drug trafficking, apply to the High Court for an order under subsection (2) in relation to any particular material or material of a particular description.

(2) The High Court may, if on such an application it is satisfied that the conditions referred to in subsection (3) are fulfilled, make an order that the finance company which appears to the Court to be in possession of the material to which the application relates shall —

- (a) produce the material to the Attorney-General or the person duly authorised by him for the Attorney-General or such person to take away; or
- (b) give the Attorney-General or the person duly authorised by him access to the material,

within a reasonable period, but not less than 7 days, as the order may specify.

(3) The conditions referred to in subsection (2) are —

- (a) (i) where the application is in respect of a foreign offence, that there is a prima facie case that a specified person has carried on or has benefited from drug trafficking; and

- (ii) in any other case, that there are reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking;
- (b) that there are reasonable grounds for believing that the material to which the application relates —
 - (i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made; and
 - (ii) does not consist of or include items subject to legal privilege; and
- (c) that it is not contrary to the public interest to produce the material to which the application relates.

(4) A finance company which complies with an order made under subsection (2) shall not be treated as being in breach of any restriction upon the disclosure of information or material relating to a customer's account imposed by contract.

(5) No action shall lie against a finance company which in good faith produces materials or gives access to materials relating to the account of its customer by reason of that finance company having made the production or given access in compliance with an order made against it under subsection (2) or any act done or omitted to be done in relation to the funds, investment or property in the account of that customer in consequence of the production of or access to those materials.

(6) The proceedings for an application of a production order under this section shall be heard in camera.

(7) In this section —

“drug trafficking” and “foreign offence” have the same meanings as in the Drug Trafficking (Confiscation of Benefits) Act; Cap. 84A.

“items subject to legal privilege” has the same meaning as in section 33 (2) of the Drug Trafficking (Confiscation of Benefits) Act.

Production orders to obtain information to assist foreign authority investigating drug trafficking. 27/94.

33B.—(1) The Attorney-General or any person duly authorised by him in writing may make an application under section 33A for the purpose of assisting a foreign authority in its investigation into a foreign offence if and only if the conditions in subsection (2) are fulfilled in addition to those in section 33A (3).

(2) The conditions referred to in subsection (1) are —

- (a) there exists a mutual legal assistance treaty, memorandum of understanding or other agreement or arrangement in drug-related matters between Singapore and the foreign government and the conditions therein have been fulfilled in respect of any particular request for assistance from the Attorney-General, which conditions shall be in addition to and not in derogation of the conditions in this subsection;
- (b) the foreign authority has agreed to provide reciprocal assistance in drug-related matters to Singapore;
- (c) the foreign offence which is the subject of the investigation constitutes an offence against the law of or of a part of the State of the foreign authority and the act or omission constituting the offence or the equivalent act or omission would, if it had occurred in Singapore, have constituted an offence under the Drug Trafficking (Confiscation of Benefits) Act or the Misuse of Drugs Act;
- (d) the seriousness of the foreign offence under investigation is of sufficient gravity and the material which is the subject of the application is of sufficient importance to the investigation and whether the material could not reasonably be obtained by other means;
- (e) the assistance is not likely to prejudice the sovereignty, security or other essential interests of Singapore;
- (f) it is appropriate in the public interest to give the assistance sought;
- (g) the foreign authority undertakes that the material sought if granted by the High Court pursuant to a production order shall not be used for any

Cap. 84A.

Cap. 185.

other purposes except for the investigation of the foreign offence or for the prosecution of the offender concerned and the material shall be returned to the Attorney-General upon completion of the investigation or the proceedings against the offender; and

(h) such other conditions as the Minister may prescribe.

(3) The proceedings for an application for a production order under subsection (1) shall be heard in camera.

(4) In this section —

“drug-related matters” includes the subject of mutual assistance in the investigation of drug trafficking offences within the meaning of the Drug Trafficking (Confiscation of Benefits) Act; Cap. 84A.

“foreign authority” means a foreign government or an appropriate authority designated by a foreign government exercising any function corresponding to a function of the Minister in charge of the Drug Trafficking (Confiscation of Benefits) Act or the Misuse of Drugs Act; Cap. 185.

“foreign country” means any country or territory outside Singapore;

“foreign government” means the government of a foreign country;

“foreign offence” has the same meaning as in the Drug Trafficking (Confiscation of Benefits) Act.

34. Any finance company that considers that it is likely to become unable to meet its obligations or is about to suspend payments shall forthwith inform the Authority of such fact. Finance company unable to meet obligation to inform Authority. 33/84.

35.—(1) Where —

(a) a finance company informs the Authority that it is likely to become unable to meet its obligations, or that it is insolvent or about to suspend payments; or Action by Authority if finance company is unable to meet obligations or is conducting business to the detriment of its depositors or creditors. 33/84.

(b) a finance company becomes unable to meet its obligations, or is insolvent, or suspends payments; or

- (c) after an inspection or investigation is made under section 33, the Authority is of the opinion that the finance company —
- (i) has carried on or is carrying on its business in a manner likely to be detrimental to the interest of its depositors or its creditors; or
 - (ii) is insolvent or is likely to become unable to meet its obligations or is about to suspend payments; or
 - (iii) has contravened or failed to comply with any of the provisions of this Act; or
 - (iv) has contravened or failed to comply with any conditions attached to its licence; or
- (d) the Authority considers it in the public interest to do so,

the Authority may exercise such one or more of the powers specified in subsection (2) as appears to it to be necessary.

(2) Subject to subsection (1), the Authority may —

- (a) require the finance company concerned forthwith to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;
- (b) appoint a person to advise that finance company in the proper conduct of its business; or
- (c) assume control of and carry on the business of that finance company or direct some other person to assume control of and carry on the business of that finance company.

(3) The Authority may, upon representation made to it or on its own motion, modify or cancel any action taken by it under subsection (2) and in so modifying or cancelling any action may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.

Powers of
Authority.
33/84.

36. Where the Authority has taken action under section 35 (2), the Authority may, without prejudice to the powers conferred by section 15 (1) (b), exercise one or more of the following powers:

- (a) confirm, vary or reverse any requirement, appointment or direction made by it;

- (b) make such order as it may think fit in relation to the affairs of the finance company and exercise any power which it may exercise under section 35 (2);
- (c) present a petition to the High Court for the winding up of the finance company by the High Court.

37.—(1) Where the Authority has assumed control of the business of a finance company in pursuance of section 35, the Authority shall remain in control of, and continue to carry on, the business of that finance company in the name of and on behalf of the finance company until such time as the Authority is satisfied that the reasons for which the Authority assumed control of the business have ceased to exist, or that it is no longer necessary for the protection of the depositors of the finance company that the Authority should remain in control of the business.

Duration of control.
33/84.

(2) Where the Authority has assumed control of the business of a finance company in pursuance of section 35 or ceased to control the business of the finance company in pursuance of this section, the Authority shall notify that fact in the *Gazette*.

38.—(1) Where the Authority has assumed control of the business of a finance company in pursuance of section 35, the finance company shall submit its business to the control of the Authority and shall provide the Authority with such facilities as may be required to carry on the business of that finance company.

Finance company under control of the Authority to co-operate with Authority.
33/84.

(2) Any finance company which fails to comply with subsection (1) or with any requirement of the Authority thereunder shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine of \$2,000 for every day during which the offence continues after conviction.

39.—(1) The Authority may at any time (whether or not the appointment of such person has terminated) fix the remuneration and expenses to be paid by a finance company to any person appointed by the Authority under section 35 (2) or 36 to advise the finance company in the proper conduct of its business.

Remuneration and expenses of Authority and others in certain cases.
33/84.

(2) Where under section 35 (2) or 36 the Authority has assumed control of the business of a finance company or

some other person has assumed control of the business of a finance company pursuant to a direction or order of the Authority, the Authority may, at any time, whether or not it or that other person has ceased to be in control of the business of the finance company, fix the remuneration and expenses to be paid by the finance company to the Authority and to any person authorised or appointed by the Authority under section 42 (2) to assist it in the control of and the carrying on of the business of the finance company, or to that other person, as the case may be.

PART VII

SUBMISSION OF ACCOUNTS AND DUTIES OF AUDITORS

Directors to submit copy of profit and loss account. Cap. 50.

40. The directors of a finance company shall submit to the Authority a copy of the profit and loss account and balance-sheet made out pursuant to section 201 (1) and (3) of the Companies Act.

Appointment and duties of auditors. 33/84.

41.—(1) Notwithstanding the provisions of the Companies Act, every finance company shall appoint annually an auditor approved by the Authority.

(2) An auditor shall not be approved by the Authority as an auditor for finance companies unless he is able to comply with such conditions in relation to the discharge of his duties as may be determined by the Authority.

(3) The Authority may appoint an auditor —

(a) if the finance company fails to appoint an auditor;
or

(b) if the Authority considers it desirable that another auditor should act with the auditor appointed under subsection (1),

and may at any time fix the remuneration to be paid by the finance company to that auditor.

(4) The duties of an auditor appointed under subsections (1) and (3) shall be to carry out, for the year in respect of which he is appointed, an audit of the accounts of the finance company and to make a report in accordance with section 207 of the Companies Act.

(5) The Authority may impose all or any of the following duties on an auditor in addition to those provided under subsection (4):

- (a) a duty to submit such additional information in relation to his audit as the Authority considers necessary;
- (b) a duty to enlarge or extend the scope of his audit of the business and affairs of the finance company;
- (c) a duty to carry out any other examination or establish any other procedure in any particular case; and
- (d) a duty to submit a report on any of the matters referred to in paragraphs (b) and (c),

and the finance company shall remunerate the auditor in respect of the discharge by him of all or any of these additional duties.

(6) The auditor's report made under subsection (4) shall be attached to the balance-sheet and the profit and loss account and a copy thereof together with any reports submitted under subsection (5) shall be transmitted in writing to the Authority.

(7) If an auditor, in the course of the performance of his duties as an auditor of a finance company, is satisfied that —

- (a) there has been a serious breach or non-observance of the provisions of this Act or that otherwise a criminal offence involving fraud or dishonesty has been committed;
- (b) losses have been incurred which reduce the capital funds of the finance company by 50%;
- (c) serious irregularities have occurred, including irregularities that jeopardise the security of the creditors; or
- (d) he is unable to confirm that the claims of creditors are still covered by the assets,

he shall immediately report the matter to the Authority.

PART VIII

MISCELLANEOUS

Authority to
administer
the Act.

42.—(1) The Authority shall be charged with the general administration of this Act and the exercise of the functions imposed on it by this Act.

(2) The Authority may authorise or appoint any person to assist it in the exercise of its functions and duties under this Act, either generally or in a particular case.

Cap. 224.

(3) The members of the Authority shall be deemed to be public servants within the meaning of the Penal Code.

Prohibition
against
transacting
of financing
business on
public
holidays.
33/84.
Cap. 126.
Cap. 19.

43. No finance company shall transact any business without the approval of the Authority on any day that is a public holiday under the provisions of the Holidays Act, or on any day declared by the Authority to be a bank holiday under section 60 of the Banking Act.

Indemnity.

44. The Authority shall not be subject to any action, claim or demand by or liability to any person in respect of anything done or omitted to be done in good faith in pursuance or in execution or intended execution or in connection with the execution or intended execution of any power conferred upon the Authority by this Act.

Moratorium.

45.—(1) The Authority may, if it considers it to be in the interests of the depositors of a finance company, by order —

(a) prohibit a finance company from carrying on its business; and

(b) stay the commencement or continuance of any actions or proceedings against a finance company in regard to its business for a specified period of time on such terms and conditions as the Authority considers reasonable, and may from time to time extend the period up to a total period of moratorium of not more than 6 months.

(2) So long as an order under subsection (1) remains in force, any licence granted to a finance company under this Act shall be suspended.

46.—(1) Every company that was not carrying on financing business in Singapore before 10th January 1968 shall, before it is granted a licence by the Authority to carry on financing business under this Act, include in its memorandum of association or articles of association the restrictions, limitations and prohibitions contained in sections 23, 24, 25, 26 and 27.

Memorandum and articles of association of finance company.

(2) Every company that —

(a) has carried on financing business in Singapore before 10th January 1968; and

(b) is licensed under this Act,

but whose memorandum of association or articles of association do not include all or any of the restrictions, limitations or prohibitions contained in sections 23, 24, 25, 26 and 27, shall be deemed to have included in its memorandum of association or articles of association all or any of such restrictions, limitations or prohibitions as are not so included.

(3) To the extent that any such restriction, limitation or prohibition so deemed to have been included in those memorandum of association or articles of association under subsection (2) is inconsistent with any provision already included in the memorandum of association or articles of association, that restriction, limitation or prohibition shall prevail over such provision.

47.—(1) Without prejudice to anything contained in the Companies Act, any person who is a director, manager or other officer concerned with the management of a finance company shall cease to hold office —

Disqualification of directors of finance company. Cap. 50.

(a) if he becomes bankrupt, suspends payments or compounds with his creditors; or

(b) if he is convicted of an offence involving dishonesty or fraud.

(2) No person who has been a director of, or directly concerned in the management of, a finance company licensed under this Act which has been wound up by a court shall, without the express approval of the Authority, act, or continue to act, as director of, or be directly concerned in the management of, any finance company.

33/84.

(3) Any person acting in contravention of subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 3 years or to both.

Penalty for offences not otherwise provided for. 33/84.

48.—(1) Any finance company which, or person who, contravenes or fails to comply with any provisions of this Act or any order made under this Act for which no penalty is expressly provided shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) The Authority may, without instituting proceedings against any person for any offence under this Act, or any regulations made thereunder, which is punishable only by a fine or a default penalty, demand and receive the amount of such fine or default penalty or such reduced amount as he thinks fit from that person, whereupon —

- (a) if that person pays such amount to the Authority within 14 days after the demand, no proceedings shall be taken against him in relation to the offence; and
- (b) if that person does not so pay the amount so demanded, the Authority may cause proceedings to be instituted in relation to the offence.

Offences by directors or managers. 33/84.

49.—(1) Any person who, being a director, managing director or manager of a finance company —

- (a) fails to comply, or to take all reasonable steps to secure compliance by the finance company, with the provisions of this Act or any order made under this Act or any other law relating to finance companies in force in Singapore; or
- (b) fails to ensure or to take all reasonable steps to ensure the accuracy and correctness of any statement or information submitted under this Act or any other law relating to finance companies in force in Singapore,

shall be guilty of an offence and shall be liable on conviction by a District Court to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) In any proceedings against a person under subsection (1), it shall be a defence to prove that he had reasonable grounds to believe and did believe that a competent and reliable person was charged with the duty of securing compliance with the provisions of this Act or any order made under this Act or any other written law relating to finance companies in Singapore or with the duty of securing that those statements were accurate and correct and that the person was in a position to discharge that duty.

(3) A person shall not be sentenced to imprisonment for any offence under subsection (1) unless in the opinion of the court the offence was committed wilfully.

50. Any director, manager, trustee, auditor, employee or agent of any finance company who —

Falsification
of books,
documents,
etc.
33/84.

- (a) wilfully makes or causes to be made, a false entry in any book of record or in any report, slip, document or statement of the business, affairs, transactions, conditions, assets or accounts of that finance company;
- (b) wilfully omits to make an entry in any book of record or in any report, slip, document or statement of the business, affairs, transactions, conditions, assets or accounts of that finance company, or wilfully causes any such entry to be omitted; or
- (c) wilfully alters, abstracts, conceals or destroys an entry in any book of record or in any report, slip, document or statement of the business, affairs, transactions, conditions, assets or accounts of that finance company, or wilfully causes any such entry to be altered, abstracted, concealed or destroyed,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

51. Where any public or private company or firm holds itself out to be a licensed finance company when it is not licensed under this Act, such company or firm shall be guilty

Holding out
as finance
company.
33/84.

of an offence and every director, manager or every officer of that company and the proprietor or every partner or officer of that firm shall, unless he proves that such holding out by the company or firm was made without his knowledge or consent, be guilty of an offence and shall be liable on conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 2 years or to both.

Fiat of
Attorney-
General.

52. No prosecution in respect of any offence under this Act shall be instituted except by, or under the direction of, the Attorney-General acting upon a complaint made by the Authority.

Exemptions.

53.—(1) This Act shall not apply to —

Cap. 19.

(a) any bank licensed under the Banking Act;

Cap. 237.

(b) the Post Office Savings Bank of Singapore established under the Post Office Savings Bank of Singapore Act;

Cap. 62.

(c) any co-operative society registered under the Co-operative Societies Act; or

Cap. 222.

(d) any business of pawnbroking carried on by a person licensed under the Pawnbrokers Act.

(2) Notwithstanding the provisions of this Act, the Authority may exempt any finance company from all or any of the provisions of this Act.

Winding up
provisions.
Cap. 50.

54.—(1) Without prejudice to the provisions of the Companies Act —

(a) a company (whether or not it is being wound up voluntarily) may be wound up under an order of the court on the petition of the Authority; and

(b) the court may order the winding up of a company if —

(i) the company has held a licence under this Act and that licence has expired or has been revoked; or

(ii) the company has carried on financing business in Singapore in contravention of the provisions of this Act.

(2) In the winding up of a company that has been carrying on financing business, the depositors shall be deemed to be holders of debentures issued to them by the company and secured by a floating charge over all the property and undertaking of the company.

55.—(1) As soon as practicable after the making of an order for the winding up of a finance company, the liquidator of the company shall publish in the *Gazette* a notice requiring every debtor of the finance company to redeem any property he has deposited with the company as security for any loan that he has obtained from the finance company, and shall also send by registered post that notice to every debtor whose security is held by the finance company and whose name is mentioned in the statement of affairs made out under section 270 of the Companies Act.

Redemption of securities held by finance company.

Cap. 50.

(2) The notice shall specify the latest date up to which any security may be redeemed, which date shall not be less than 3 months from the date of the notice.

(3) After the latest date for redeeming any security held by the finance company specified in the notice, the liquidator may proceed to realise any security held by the finance company forthwith, notwithstanding any agreement setting out any other period of redemption previously entered into between the finance company and the debtor.

56. Nothing in this Act shall affect the operation of the Companies Act, and any company that is liable to be incorporated under that Act shall continue to be so liable as if this Act had not been passed but in case of conflict between that Act and this Act the provisions of this Act shall prevail unless otherwise provided in this Act.

Operation of Act not to affect Companies Act.

57.—(1) The Authority may, from time to time, make regulations for, or in respect of, every purpose which is considered by it necessary for carrying out the provisions of this Act and for the prescribing of any matter which is authorised or required under this Act to be so prescribed.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Authority may by such regulations —

- (a) prescribe fees to be charged under this Act; and
- (b) regulate advertisements of finance companies.

27/94.

(3) Such regulations may provide that a contravention of any provision thereof shall be an offence and shall be punishable with a fine not exceeding \$5,000 or with imprisonment for a term not exceeding one year or with both as may be specified in the regulations.