

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,697 of 12th February, 2009

B. 03/09

BILL

FOR

AN ACT to amend the Financial Services (Banking) Act to restrict applications for authorisation and to grant the Minister certain powers in relation thereto.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Financial Services (Banking) (Amendment) Act 2009 and comes into operation on the day appointed by the Government by notice in the Gazette.

Amendments to the Financial Services (Banking) Act.

2.(1). The Financial Services (Banking) Act ('the Principal Act') is amended in accordance with the provisions of this section.

(2) Section 23(3) of the Principal Act is amended by inserting the following after sub-paragraph (h)–

- “(i) that where the shareholders of the applicant (apart from an applicant for authorisation as an emoney institution) comprise of a person or persons who singly or between them, directly or indirectly, own or control more than 20% of the share capital or other voting rights of the applicant, and are not a credit institution licensed in an EEA state, the consent of the Minister has been obtained;

(j) that where the applicant is not the branch of a credit institution in the UK or another EEA state, the consent of the Minister has been obtained.

(3A) The Minister shall be entitled to withhold his consent under this section to an application if he considers that it is in the public interest of Gibraltar to do so.

(3B) The provisions of sub-paragraphs (3)(i) and (3)(j) shall apply to all authorisations definitively issued after the date of commencement hereof, including applications submitted prior to that date.”.

(3) By inserting the following section after section 74–

“74A. Except with the consent of the Minister, an authorised institution of which any shareholder or shareholders directly or indirectly owning or exercising control of the shares or other voting rights of that institution is itself or are themselves a credit institution, may only use a name which, in the opinion of the Minister, is solely derived from the name of that shareholder or shareholders, or the name of any wholly owned entity or entities in the group or groups of companies of which that shareholder or those shareholders form part.”.

EXPLANATORY MEMORANDUM

The purpose of this Bill is to require the consent of the Minister with responsibility for financial services, for the following—

1. the issue of a banking authorisation to an entity where more than 20% of the shares are not owned by an EEA credit institution;
2. the issue of a banking authorisation to any entity which is not a branch of a credit institution in the UK or another EEA state; and
3. the use of a name by an authorised credit institution other than a name derived from the name of those of its shareholders that are a credit institution or the group of companies of which such shareholders form part.

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