

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,826 of 16th December, 2010

B. 34/10

CURRENCY NOTES ACT 2011

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BILL

FOR

AN ACT to update the law relating to the issue by the Government, of Gibraltar currency notes.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Currency Notes Act 2011 and comes into operation on the day of publication.

Interpretation.

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

“Commissioner” means the Commissioner of Currency appointed by section 3;

“currency notes” means currency notes issued by the Government;

“Fund” means the Note Security Fund established by section 8(1);

“Minister” means the Minister with responsibility for finance;

“the repealed Act” means the Currency Notes Act repealed by section 13(1).

Commissioner of Currency.

3. The person for the time being lawfully discharging the duties of Financial Secretary shall for the purposes of this Act be the Commissioner of Currency.

Issue and form of currency notes.

4.(1) It shall be lawful for the Commissioner, subject to the provisions of this Act, to provide, issue and re-issue currency notes of the Government.

(2) Currency notes issued under this Act shall be of such denominations and of such form and design and printed from such plates and on such paper and be authenticated in such manner as may be approved by the Minister.

(3) The plates shall be prepared and kept and the notes printed in such manner as the Minister may approve and the notes shall be issued and cancelled in the manner prescribed.

Legal tender, etc.

5. Currency notes issued under this Act shall be legal tender in Gibraltar for the payment of any amount, and shall be deemed to be valuable securities within the meaning of Part XVI of the Criminal Offences Act and any other law relating to theft which is for the time being in force in Gibraltar, and to be current coin in Gibraltar for the purpose of the Truck Act and any other like enactment.

Conversion between currency notes and sterling.

6. The Commissioner shall issue on demand to any person desiring to receive currency notes in Gibraltar, currency notes to the equivalent value (at the rate of one pound for one pound sterling) of sums in sterling lodged with the Commissioner by such person, and shall pay on demand to any person desiring to receive sterling the equivalent value so calculated of currency notes lodged with him by such person:

Provided that—

- (a) no person shall be entitled to lodge with the Commissioner less than such minimum sum as may be prescribed for the

purpose of obtaining currency notes or sterling, as the case may be; and

- (b) the Commissioner shall be entitled to charge and levy from any person obtaining currency notes or sterling a commission at such rate or rates not exceeding one per cent as may be prescribed, and may charge in addition the cost in connection with any transfer as above described.

Issue of further notes.

7. The Commissioner in his discretion may issue Government currency notes to the equivalent market value of securities of or guaranteed by the Government of Gibraltar lodged with the Commissioner as part of such a transaction as is permitted by proviso (a) to section 8(3).

Note Security Fund.

8.(1) There shall be established a fund to be called “The Note Security Fund” and there shall be paid into the Fund the equivalent value in sterling of all currency notes issued otherwise than in exchange for currency notes already issued.

(2) There shall be charged upon the Fund the sterling payments made by the Commissioner in respect of notes lodged with him under the provisions of section 6.

(3) Except as hereinafter provided the Fund shall be held in sterling securities of or guaranteed by the Government of the United Kingdom or the Government of Gibraltar.

Provided that—

- (a) the total amount of the moneys in the Fund which are invested in securities of or guaranteed by the Government of Gibraltar shall at no time exceed 30 per cent of the value of the Fund, such securities being such as the Commissioner may select and, if issued in Gibraltar, shall be held in Gibraltar, by the Commissioner; and

- (b) the Minister may from time to time issue directions to the Commissioner as to the amount of the Fund to be held in liquid form.

(4) The liquid portion of the Fund may be held in cash, or on deposit either at the Bank of England or the Gibraltar Savings Bank, or in Treasury Bills, or with the approval of the Minister lent out at call or for short terms or invested in readily realisable securities.

(5) All dividends, interest or other revenue derived from such investments or from employment in any other manner of the moneys of the Fund and all commissions paid to the Commissioner as provided in section 6 shall be paid into the Fund.

(6) All expenses incurred by the Commissioner in the preparation, transport and issue of the currency notes and the transaction of business relating thereto shall be charged upon the Fund.

(7)

- (a) if on the last day in any financial year the face value of the currency notes in circulation, other than notes which have been demonetised, exceeds the value of the Fund, there shall be paid into the Fund, from moneys to be appropriated out of the Consolidated Fund, the amount required for the purpose of making up the moneys of the Fund to an amount at least equal to the face value of currency notes in circulation, other than notes which have been demonetised;
- (b) if on the last day of the financial year the value of the Fund exceeds the face value of the currency notes in circulation, the Commissioner may, with the sanction of the Minister, direct that the whole or part of the excess be transferred from the Fund to the Consolidated Fund.

Penalty for mutilating or defacing currency notes.

9. A person who without lawful authority or excuse, (the proof whereof shall lie on the person accused), mutilates or in any way defaces a currency note whether by writing, printing, drawing or stamping thereon or by attaching or affixing thereto anything in the nature or form of an advertisement, is guilty of an offence and is liable on summary conviction to a fine at level 1 on the standard scale.

Publication of statements and audit.

10.(1) The Commissioner shall cause to be published half-yearly in the Gazette an abstract showing—

- (a) the whole amount of currency notes in circulation, other than notes which have been demonetised, on the last day of the half-year;
- (b) the total amount of the Fund on that day, the value of the invested portion of the Fund being calculated on the latest known market price of the securities held by the Fund; and
- (c) a list of the securities held by the Fund showing in each case the nominal value, the cost price and the latest known market price,

and shall submit annually to the Minister a statement of his transactions during the preceding year.

(2) The accounts of all transactions of the Commissioner shall be audited by the Principal Auditor.

Rules.

11 The Minister may make rules for fixing the rates of commission to be charged under section 6, for directing and controlling the calling in or demonetisation of currency notes issued under this Act and generally for the better carrying into effect the provisions of this Act.

Bank notes etc. issued under repealed Act.

12. Bank notes and currency notes issued under the provisions of the repealed Act, shall be deemed to have been issued under this Act.

Repeal and savings.

13.(1) The Currency Notes Act is repealed.

(2) Subsidiary legislation made under the repealed Act continues in force as if made under section 11 of this Act, until revoked or amended by the Minister under that section.

(3) Any direction, approval, notice or other non-legislative instrument made or issued by the Government, a Minister or any person or body under the repealed Act which could be made or issued by the Government, a Minister or an equivalent person or body under this Act continues to have effect as if made or issued by the Government, that Minister or that person or body under this Act until varied or revoked under this Act.

(4) Any delegation made, direction given or other action taken by a person under the repealed Act which could be taken by an equivalent person under this Act continues to have effect as if taken by that person under this Act.

Transitional provisions.

14.(1) Proceedings for an offence under the repealed Act that had commenced before the commencement of this Act must continue under that Act as if it had not been repealed.

(2) If proceedings for an offence committed under the repealed Act have not been commenced at the commencement of this Act, if there is an equivalent offence under this Act, proceedings must be brought under this Act.

(3) An appeal against conviction or sentence in respect of an offence committed before the commencement of this Act must be conducted as if this Act had not been enacted.

References to repealed Act.

15. A reference in any other enactment to the repealed Act is, to the extent possible, to be read as a reference to the corresponding provision of this Act.

EXPLANATORY MEMORANDUM

This Act repeals and replaces the Currency Notes Act but saves subsidiary legislation which will be deemed to have been made under section 11 of this Act.

The provisions in this Act remove references that are no longer relevant since the enactment of the 2006 Constitution. References that have been replaced include references to the Secretary of State and references to Crown Agents. Such responsibilities instead vest in the Minister with responsibility for finance and in the Financial Secretary, as Commissioner of Currency, as appropriate.

The Act provides for the revenue and expenditure that was previously accounted for through the Currency Note Income Account to be accounted for directly through the Note Security Fund.

Provision is made for the Minister to direct that any excess in the value of the Note Security Fund over the face value of the currency notes in circulation be transferred to the Consolidated Fund. The Act also provides for the transfer from the Consolidated Fund to the Note Security Fund if the value of notes in circulation exceeds the face value of the Fund.

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