



BELIZE

**NATIONAL PAYMENT SYSTEM ACT
CHAPTER 266:01**

REVISED EDITION 2020

**SHOWING THE SUBSTANTIVE LAWS AS AT
31ST DECEMBER, 2020**

This is a revised edition of the Substantive Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2020.



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CHAPTER 266:01

NATIONAL PAYMENT SYSTEM

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CHAPTER 266:01

NATIONAL PAYMENT SYSTEM

[3rd February, 2017]

15 of 2017.

PART I

Preliminary

1. This Act may be cited as the National Payment System Act. Short title.

2. In this Act— Interpretation.

“account” means any account maintained with a payment service provider who holds accounts in accordance with the laws of Belize;

“affiliate” has the meaning assigned to it in section 2 of the Domestic Banks and Financial Institutions Act;

“bank” has the meaning assigned to it in section 2 of the Domestic Banks and Financial Institutions Act; CAP. 263.

“Central Bank” means the Central Bank of Belize established under section 4 of the Central Bank of Belize Act; CAP. 262.

“central counter-party” means an entity that is the buyer to every seller and the seller to every buyer in a settlement system;

“central securities depository” means an entity which enables—

(a) securities to be immobilized or dematerialized;

- (b) securities transactions to be processed by book-entry;
- (c) custodial and asset services to be provided; and
- (d) securities to be held either as an electronic record or in physical form;

“clearing” means the process of transmitting, reconciling or confirming funds or securities transfer instructions prior to settlement and includes the netting of instructions and the establishment of final positions for settlement;

“clearing house” means an entity that provides clearing or settlement services for a system and includes the Central Bank;

“clearing system” means a set of procedures whereby participants present and exchange information relating to the transfer of funds or securities to other participants through a centralized system or at a single location and includes mechanisms for the calculation of participants’ positions on a bilateral or multilateral basis with a view to facilitating the settlement of their obligations;

“close-out netting” means a netting arrangement under which, following the occurrence of certain events specified by the parties to the arrangement, all or any of the transactions referred to in the netting arrangement may be terminated, and where so terminated the termination value becomes due and payable;

“Council” means the National Payment System Council established under section 6;

“counter party” means the opposite party to a financial transaction such as a securities trade or swap agreement;

“credit card” means a card that authorizes the person named on it to charge goods or services to the account of an account holder on a credit basis subject to repayment over a period of time;

“credit risk” means the risk that a counter party to a financial transaction will not settle that party’s obligation for full value either when due or at any time thereafter;

“credit transfer” means the series of transfers, beginning with the payer’s payment order, made for the purpose of making payment to the payee and includes a payment order issued by the payer’s payment services provider, or an intermediary intended to carry out the payer’s payment order;

“credit union” has the meaning assigned to it in section 2 of the Credit Unions Act; CAP. 314.

“debit card” means a card or other instrument, by which money is automatically deducted from an account at a deposit-taking institution to pay for goods or services purchased;

“debit transfer” means the series of transfers, initiated by a payee, on the basis of a payer’s consent given to the payee, to the payee’s payment service provider or to the payer’s own payment services provider and includes a payment order issued by the payee’s payment service provider, or an intermediary intended to carry out the payee’s order;

“dematerialized” means the elimination of physical certificates or documents of title which represent ownership of securities so that securities exist only as accounting records;

“direct participant” means a participant in a system who is responsible for the settlement of its own payments, those of its consumers and those of other participants who are not entitled to settle through the system on their own behalf;

“electronic funds transfer” means a transfer of funds which is initiated by a person, either totally or partially, so as to instruct,

authorise, or order a payment service provider to debit or credit an account through an electronic terminal, telephonic instrument or other automated device, excluding the sale of postal money orders, and including—

- (a) point-of-sale transfers;
- (b) automated teller machine transactions;
- (c) transfers initiated by telephonic instruments, including mobile phones;
- (d) transactions through television, the Internet and other communication channels; and
- (e) credit card and debit card transfers;

“electronic money” means monetary value represented by a claim on the issuer, which is—

- (a) stored on a payment device such as a chip, prepaid card, mobile phone or on a computer system;
- (b) issued on receipt of funds of an amount not less in value than the monetary value issued; and
- (c) accepted as a means of payment by persons other than the issuer,

but the funds referred to in paragraph (b) shall not be treated as a deposit under this or another enactment;

CAP. 263.

“financial institution” has the meaning assigned to it in section 2 of the Domestic Banks and Financial Institutions Act;

“fit and proper person” has the meaning assigned to it in section 5 of the Domestic Banks and Financial Institutions Act;

CAP. 263.

“gross settlement” means the settlement of funds or securities transfer instructions that occur individually on an instruction by instruction basis;

“international remittance service” means a remittance service that includes, in whole or part, the sending from or receiving at or by a location or person within Belize of cash, cheques or other monetary instruments to or from a location or person outside of Belize;

“liquidity risk” means the risk that a participant in a settlement system will not settle an obligation for full value when due, even if the participant is not insolvent and may be able to settle the obligation at an unspecified time thereafter;

“multilateral netting” means an arrangement among three or more parties to net their obligations;

“National Payment System” includes all the institutions, infrastructure, processes, activities, mechanisms; rules, regulations and procedures in Belize, whether wholly or partially, that are related to systems, operators, payment service providers, payment services, participants, other users of systems and users of payment services;

“net settlement” means a settlement procedure in which final settlement of transfer instructions occurs on a net basis at one or more discrete and pre-specified times during the processing period;

“net termination value” means the net amount obtained after setting off or otherwise netting the settlement obligations between the parties in accordance with settlement rules issued by the Central Bank or a netting arrangement entered into between the parties;

“netting” means the determination of the net payment obligations or the determination of the net termination value of settlement obligations between two or more participants within a system;

“netting arrangement” means an arrangement in writing to convert several claims or obligations into one net claim or one net obligation and includes bilateral netting, multilateral netting, netting by novation, close-out netting, payments netting or a combination of any of these;

“netting by novation” means a netting arrangement between the parties to a series of transactions where an account of amounts due is kept and the rights and obligations of the parties in respect of the account are continuously extinguished and replaced by a new single amount payable by one party to the other;

CAP. 263.

“officer” has the meaning assigned to it in section 2 of the Domestic Banks and Financial Institutions Act;

“operator” means the Central Bank or any entity licensed by the Central Bank to operate a system;

“participant”, in relation to a system, means a party who is recognized in the rules of a system as eligible to exchange, clear and settle through the system with other participants either as a direct participant or through the services of a direct participant;

“payment card” means a card, coupon book, or other device, including a code or any other means of access to an account, that may be used to obtain money or to make payment, and includes a debit, credit and stored-value card;

“payment instrument” means an instrument, whether tangible or intangible, that enables a person to obtain money, goods or services or to otherwise make payment or transfer money and includes, but is not limited to, a cheque, a fund transfer initiated by any paper or paperless device such as automated teller

machines, point of sale, internet, telephone, mobile and payment cards, including those involving storage of electronic money;

“payment service” means a service which enables cash deposits and withdrawals, execution of a payment, the issue or acquisition of a payment instrument, the provision of a remittance service, and any other service functional to the transfer of money and includes the issue of electronic money and an electronic funds transfer but excludes the provision of a solely online or telecommunication service or network access;

“payment service agent” means a person who is authorised to provide a payment service as an agent on behalf of a payment service provider and who is authorised under section 24;

“payment service provider” means a person that is licensed to provide a payment service;

“payment system” means any system that consists of a set of instruments, banking procedures and, typically, interbank funds transfer systems that ensure the circulation of money;

“Register” means the register required under section 24;

“remittance service” means a domestic or international service, excluding the sale of a postal money order and an electronic funds transfer, where cash, cheques, other monetary instruments are sent from one location and a corresponding sum in cash or other monetary instruments is received by a designated recipient in another location by means of a communication, a message, transfer or through a clearing system in which the remittance service provider is a participant;

“securities” means negotiable or non-negotiable financing or investment instruments that denote ownership, a right or other interest and include, but are not limited to bonds, debentures, notes, options, shares and warrants;

“settlement” means the act of discharging obligations by transferring funds or securities between two or more parties;

“settlement account” means an account at the Central Bank, a settlement agent or central counter-party used to hold funds and securities and to settle transactions between participants in a system;

“settlement agent” means a company providing accounts for the participants in a system to hold funds and to settle transactions between participants in the system;

“settlement risk” means the risk that a party will default on one or more settlement obligation to the opposite party or to a settlement agent;

“settlement rules” means the rules, that provide the basis upon which payment obligations are calculated, netted or settled and includes rules for the taking of action in the event that a participant is unable or likely to become unable to meet its obligations to a payment system, clearing house, central counter-party or other participants and includes settlement of obligations from securities;

“settlement system” means a system established and operated by the Central Bank for the discharge of payment obligations as well as of settlement of obligations in relation to securities or another system which is approved by the Central Bank for this purpose;

“system” includes a payment system, clearing system or settlement system but excludes—

- (a) a clearing house recognized under any other law;
- (b) an in-house system operated by a person solely for his own administrative purposes that does

not transfer, clear or settle funds for third parties; or

- (c) any other system or arrangement as may be prescribed by law; and

“systemic risk” means the risk that the failure of one participant in a system, or in financial markets, to meet its required obligations will cause other participants or financial institutions to be unable to meet their obligations, including settlement obligations in a system, when due and that this may cause significant liquidity or credit problems and may threaten the stability of a financial market.

PART II

Administration of the National Payment System

3.–(1) The Central Bank shall establish the National Payment System.

Establishment of National Payment System.

(2) The Central Bank shall regulate and oversee the National Payment System with the aim of reducing any inefficiencies and potential risks to the National Payment System.

(3) Without prejudice to the generality of sub-section (2), the Central Bank shall–

- (a) formulate policies for continuous modernization of the National Payment System;
- (b) license payment service providers and operators in conformity with the provisions of this Act and any further implementing measure;

- (c) establish general or individual conditions, standards, rules or procedures in accordance with this Act and any further implementing measure regarding an entity licensed under this Act and its activities and ensure that these conditions, standards, rules and procedures are duly applied;
- (d) act as a forum for the consideration of matters of policy and mutual interest concerning the National Payment System;
- (e) perform any other functions relating to payment, clearing or settlement systems or the issuance of payment instruments permitting the accomplishment of its functions; and
- (f) issue regulations, order, directives, guidelines or notices to govern the operation and regulation of the National Payment System.

Operational role
of the Central
Bank

4.—(1) The Central Bank may provide facilities for a system to an operator or participant.

(2) The Central Bank may, in order to facilitate its role pursuant to sub-section (1)—

- (a) establish, own, operate and participate in the ownership or operation of a system;
- (b) act as a central counter-party to participants;
- (c) hold accounts for an operator or participant, which may be used for the clearing and settlement of transfers into a system;
- (d) hold securities on accounts for an operator and participant, which may be used for the working of a system;

- (e) extend intra-day credit, where it has been granted adequate collateral, to entities that are participating in a system; or
- (f) act as a central securities depository and authorize another entity to act as a central securities depository.

5.–(1) The Central Bank may cooperate with–

Cooperation with other authorities.

- (a) a public authority engaged in the regulation and supervision of financial institutions;
- (b) an entity directly or indirectly involved in payment services and their operation in Belize;
- (c) an entity directly or indirectly involved in the regulation, monitoring and supervision of capital markets in Belize; and
- (d) a monetary authority or international organisation dealing with regulation and oversight of a system.

(2) The Central Bank may for the purpose of cooperating with an entity or authority referred to in sub-section (1) enter into a memorandum of understanding with that entity or authority.

(3) Sub-section (2) does not prohibit the Central Bank from cooperating with an authority or entity referred to in sub-section (1) in the absence of a memorandum of understanding with that authority or entity.

6.–(1) The National Payment System Council is hereby established for the purpose of advising the Central Bank on the regulation and oversight of the National Payment System, including, but not limited to, setting operational and technical

Establishment of the National Payment System Council.

standards and other matters affecting payment services and the clearing and settlement of payments and securities.

(2) The Council shall consist of seven members, and be chaired by a representative from the Central Bank and the other members appointed by the Central Bank, on the recommendation of the following entities—

- (a) other governmental bodies that regulate or are in any other way involved in a system or financial market;
- (b) if in existence, associations of financial institutions and credit unions operating in Belize which are involved in a payment service or clearing and settlement of securities; and
- (c) any other entity, involved in a payment service or in the clearing and settlement of securities, as may be determined by the Central Bank.

PART 3

Licensing

Prohibition against carrying on activity without a licence.

7. A person shall not provide payment services or operate a system unless that person is duly licensed for that purpose by the Central Bank.

Application for a licence.

8.—(1) An applicant for a licence to provide a payment service shall apply to the Central Bank in the prescribed manner, together with payment of the fee prescribed by the Central Bank under section 32 and provide the following information—

- (a) documents which indicate the applicant's legal status;

- (b) an identification and description of the type of payment service the applicant intends to provide;
- (c) a business plan, including a budget forecast, for five financial years from the date the applicant intends to provide the payment service and which demonstrates that the applicant is able to employ systems, resources and procedures in the provision of the payment service that are appropriate, proportionate and sound;
- (d) a description of the measures taken to safeguard funds of a consumer of the payment service;
- (e) a description of the applicant's management arrangements and internal control mechanisms, including administrative, risk management and accounting procedures, which demonstrate that these management arrangements and internal control mechanisms and procedures are appropriate, sound and adequate;
- (f) a description of the internal control mechanisms which the applicant has established in order to comply with obligations in relation to anti-money laundering and terrorist financing;
- (g) a description of the applicant's organisational structure including, if applicable, information about proposed agents, branches, outsourcing arrangements and participation in a national or international payment system;

- (h) the identity of persons who have a direct or indirect interest or holding in the applicant;
- (i) the identity of directors of the applicant and the persons responsible for managing the provision of the payment service by the applicant; and
- (j) any other information the Central Bank may require.

(2) An applicant for a licence to operate a system shall apply to the Central Bank in the prescribed manner, together with payment of the fee prescribed by the Central Bank under section 32 and provide the following information—

- (a) documents which indicate the applicant's legal status;
- (b) an identification and description of the type of system the applicant intends to operate including the proposed rules of the system;
- (c) a business plan, including a budget forecast, for five financial years from the date the applicant intends to operate the system;
- (d) a description of the applicant's management arrangements and internal control mechanisms, including administrative, risk management and accounting procedures, which demonstrate that these management arrangements and internal control mechanisms and procedures are appropriate, sound and adequate;
- (e) a description of the applicant's organisational structure including, if applicable, information about proposed outsourcing arrangements and

- participation in a national or international system;
- (f) a description of the technical structure and information technology system including—
 - (i) the architectural design and processes of the system;
 - (ii) the measures employed to safeguard technical operations, including a contingency plan in the event of an operational disruption should the ordinary system fail to function; and
 - (iii) the measures taken to secure the protection of electronic processing and the storage of data relating to the system against disclosure, misuse, damage, destruction, loss or theft;
 - (g) an analysis of the risk and measures to limit risks in the system arising from illiquidity or insolvency of participants including capacity to manage risk;
 - (h) the identity of persons who have a direct or indirect interest or holding in the applicant;
 - (i) the identity of directors of the applicant and the persons responsible for managing the system of the applicant; and
 - (j) any other information the Central Bank may require.

(3) For the purpose of sub-section (1), the Central Bank may specify different classes and subclasses of payment services in

respect of which a person is required to apply for a licence and for which a licence may be granted under section 9, including—

- (a) a remittance service;
- (b) an electronic funds transfer;
- (c) electronic money; and
- (d) any other classifications the Central Bank considers appropriate.

Grant of a licence to provide a payment service.

9.—(1) The Central Bank may grant a licence to provide a payment service if the Central Bank is satisfied that the applicant—

- (a) is a corporate body;
- (b) has the prescribed paid up capital and capital adequacy requirement;
- (c) has suitable and sufficient technical and organisational skills to provide a payment service including the proper mechanisms to achieve internal control and risk management as related to the provision of services;
- (d) has a mechanism to safeguard funds which have been received from consumers of a payment service or through another payment service provider for the execution of payment transactions, by not making them commingled at any time with the funds of third parties and making them insulated against the claims of other creditors of the service provider, in particular in the event of insolvency;

- (e) has a detailed strategy and business plan supported by realistic estimations in the budget forecast for five years;
- (f) is a fit and proper person and every officer is a fit and proper person;
- (g) guarantees liquidity of the settlement of orders accepted by the system and this is protected from credit risk;
- (h) has sufficiently indicated that the grant of a licence is consistent with the objectives of protecting financial stability and is in the interest of the public; and
- (i) satisfies any other condition the Central Bank considers necessary.

(2) Where the Central Bank after considering—

- (a) the type of payment service to be provided and the related risks;
- (b) the average value of payments; and
- (c) any other relevant factor,

prescribes a paid up capital or capital adequacy requirement for the purpose of sub-section 1(b), the Central Bank shall specify in the conditions of the licence the required paid up capital or capital adequacy to be maintained by the licensee as a condition of the licence.

10.—(1) The Central Bank may grant a licence to operate a system if the Central Bank is satisfied that the applicant—

Grant of a licence to operate a system.

- (a) is a corporate body;

- (b) has the prescribed paid up capital and capital adequacy requirement;
- (c) has suitable and sufficient technical and organisational skills to operate a system including the proper mechanisms to achieve internal control and risk management as related to the operation of the system;
- (d) is a fit and proper person and every officer is a fit and proper person;
- (e) has an access criteria that is safe and non-discriminatory;
- (f) guarantees liquidity of the settlement of orders accepted by the system and this is protected from credit risk;
- (g) has satisfactory means of protection from technical breakdowns within the system;
- (h) has sufficiently indicated that the grant of a licence is consistent with the objectives of protecting financial stability and is in the interest of the public; and
- (i) satisfies any other condition the Central Bank considers necessary.

(2) Where the Central Bank after considering–

- (a) the type of system to be provided;
- (b) the volume and value of payments likely to be processed in the system; and
- (c) any other relevant factor,

prescribes a paid up capital or capital adequacy requirement for the purpose of sub-section 1(b), the Central Bank shall specify in the conditions of the licence the required paid up capital or capital adequacy to be maintained by the licensee as a condition of the licence.

11.—(1) Notwithstanding sections 7 and 8, a bank shall be a direct participant and shall not be required to obtain a licence to provide a payment service under this Act.

Exemptions from licensing.

(2) Notwithstanding sections 7 and 8, a credit union that meets the access criteria prescribed by the Central Bank may be a direct participant, shall not be required to obtain a licence to provide a payment service, other than an international remittance service, under this Act.

(3) Notwithstanding sub-sections (1) and (2), a bank or credit union which provides a payment service under the Domestic Banks and Financial Institutions Act or the Credit Union Act, respectively, shall,—

CAP. 263.
CAP. 314.

- (a) comply with all other requirements of this Act and its regulations;
- (b) be subject to the oversight requirements for entities licensed or approved;
- (c) be required to apply for a licence to operate a system under section 8(2); and
- (d) be required to obtain the authorization of the Central Bank for the use of an agent to provide a payment service.

12.—(1) A person to whom a licence to provide a payment service is granted shall display the certificate of a licence conspicuously at the primary location where the licensee conducts business and shall similarly display a copy of the licence at every other location or branch in Belize.

Display of licence and certificates.

(2) An agent of a payment service provider for the provision of a remittance service shall obtain from the Central Bank a certificate of agency in respect of each location and display the certificate conspicuously at the relevant location.

Licence non-transferable.

13. A licence or any right acquired under this Act shall not be transferable, whether wholly or partly, except as may be prescribed by the Central Bank, and any transfer in contravention thereof shall be void.

Renewal of licence.

14. A licence granted under this Part may be renewed in the manner and subject to payment of the fees or other payments prescribed by the Central Bank under section 32.

Conditions of licence.

15.–(1) A licence granted under this Act shall be subject to the conditions the Central Bank considers necessary and the Central Bank may, for the purposes of this Act, amend any condition of a licence by way of alteration, substitution, addition, omission or other modification.

(2) The Central Bank may, upon the application of a licensee, amend a condition of a licence if it considers the proposed amendment to be appropriate.

(3) The procedure for amending a condition of a licence under sub-sections (1) and (2), including the required periods of notice and period for making representation to the Central Bank, shall be prescribed in regulations issued under section 56.

(4) Without prejudice to the generality of sub-section (1), it shall be a condition of every licence that a person shall not, without the written authorisation of the Central Bank, act or continue to act as a director or officer of a licensee or as an agent acting on behalf of a licensee if that person is not a fit and proper person.

Revocation or suspension of licence.

16.–(1) The Central Bank may suspend or revoke a licence granted under section 9 or 10 if–

- (a) the licensee breaches a condition of the licence or fails to comply with this Act or its regulations;
- (b) the licensee fails to commence operation of the system within the prescribed period of time;
- (c) the licensee has ceased operation of the system for the prescribed period of time;
- (d) the licensee obtained the licence through the provision of incorrect information to the Central Bank or any other irregular means;
- (e) the licensee no longer meets the applicable criteria for the grant of a licence under sections 9 or 10;
- (f) the operation of the system for which the licence was granted endangers the stability of the payment or financial system in Belize;
- (g) the company that owns or operates the system enters into insolvency proceedings;
- (h) in the opinion of the Central Bank, the operation of the system is no longer in the public interest or the system no longer represents the interest of the participants; or
- (i) the suspension or revocation of a licence is permitted for the commission of an infringement under Part VII.

PART IV

Rules to Regulate a System

Establishment of
rules of a system.

17.–(1) An operator shall establish written rules for the governance, management and operation of the system, which the operator is licensed to operate, including, at a minimum, rules for–

- (a) management of liquidity, credit and settlement risk;
- (b) determining the time when a payment instruction and a settlement is final; and
- (c) corporate governance, access, contingency arrangements and operational risk, rights and liabilities of participants and the operator.

(2) Rules made pursuant to sub-section (1) shall be subject to the prior approval of the Central Bank and shall not be inconsistent with the requirements of this Act, and any regulations, rules, orders, directives or guidelines issued by the Central Bank in respect of the governance, management or operation of a system.

Amendment of
rules.

18.–(1) The Central Bank may vary or revoke any rule established under section 17 where it considers it appropriate to do so, having regard to–

- (a) whether the variation or revocation would be in the public interest;
- (b) the interests of the current participants in the system;
- (c) the interests of persons who, in the future, may desire access to the system; and

- (d) any other matters the Central Bank considers relevant.

(2) An operator shall not amend a rule established under section 17 or cause a change in the system which would affect the structure, operation or administration of the system without—

- (a) the written approval of the Central Bank; and
- (b) giving at least thirty days' notice to the participants after the written approval of the Central Bank is obtained.

(3) Notwithstanding sub-section (2), the Central Bank may—

- (a) as operator of a system, make a change to the rules of its system; or
- (b) permit any other operator to make a change to a rule of that operator's system,

without giving notice to the participants under sub-section (2)(b) or requiring the operator to give notice for a period less than thirty days, in the interest of monetary policy, financial stability, or in the public interest.

19. An operator—

Access to system.

- (a) shall make rules on access to a system which are objective, non-discriminatory and proportionate; and
- (b) shall not inhibit access to the system more than is necessary to safeguard against risks, including—
 - (i) credit, liquidity, and systemic risks;
 - (ii) settlement risks; and

- (iii) the risk that deficiencies in information systems or internal controls could result in unexpected losses.

Central Bank directives.

20. Notwithstanding any other provision of this Part, the Central Bank may issue directives in respect of all or any of the matters specified in this Part and in the event of a conflict between any rule, instruction, direction or agreement made by or, as the case may be involving an operator and any directives made by the Central Bank under this Act, the directives of the Central Bank shall prevail.

PART V

On-going Oversight

General and Individual measures.

21.–(1) The Central Bank may at any time adopt general standards and criteria for the conduct of payment services or the operation of systems.

(2) The Central Bank may at any time issue directives to a licensed payment service provider or operator, or generally to such providers or operators or categories thereof, with respect to the governance, management, operations, relations with consumers, and relations with systems and any other matter for the efficient administration of this Act.

(3) The Central Bank shall, at least fifteen days prior to the coming into operation of any general directive issued under subsection (2), publish that directive in the *Gazette* or give notice on its website.

Power to examine and inspect.

22.–(1) The Central Bank is authorised, with or without prior notice, to enter and inspect the premises of an operator or payment service provider for the purposes of carrying out its functions under this Act and during an inspection the Central Bank may—

- (a) inspect and retain any book, account, other document, equipment, apparatus, machinery, and any other item or record of a payment system participant, operator or issuer of a payment instrument; and
- (b) interview staff of a payment service provider or operator.

23.—(1) An operator or a payment service provider shall not outsource an aspect of the operation of its system or the provision of its payment service without prior authorisation of the Central Bank, and shall provide the Central Bank with all relevant information in relation to the proposed outsourcing in a request for authorisation.

Outsourcing of activities.

(2) The Central Bank may, upon receipt of the request and information required under sub-section (1), issue authorisation for the outsourcing of an operational function that is not an important operational function that is being outsourced in a manner that, impairs—

- (a) the quality of the operator’s or payment services provider’s internal control; or
- (b) the ability of the Central Bank to monitor the operator’s or payment service provider’s compliance with all obligations prescribed under this Act.

(3) The Central Bank shall ensure that when an operator or payment services provider outsources an important aspect of its operation or payment service, it complies with the following conditions—

- (a) the outsourcing shall not result in the delegation by senior management of its responsibility;

- (b) the relationship and obligations of the issuer towards the consumers of any relevant payment instrument shall not be altered;
- (c) the conditions with which the operator or payment services provider is to comply in order to be licensed and remain so in accordance with this Act shall not be undermined; and
- (d) none of the other conditions subject to which the licence was granted shall be removed or modified.

(4) For the purposes of sub-sections (2) and (3), an aspect of an operation or payment service shall be regarded as important if a defect or failure in its performance would materially impair the continuing compliance of an operator or payment services provider with the requirements of its licence, its financial performance or the soundness or the continuity of its services.

Use of agents.

24.—(1) Where a payment service provider intends to provide a payment service to a consumer through an agent, the payment service provider shall seek the prior authorisation of the Central Bank by making an application under sub-section (2) to the Central Bank, which shall contain the following information—

- (a) the name and address of the agent;
- (b) a description of the internal control mechanisms that will be used by the agent in order to comply with its obligations pursuant to the Money Laundering and Terrorism (Prevention) Act;
- (c) the identity of the directors and persons responsible for the management of the agent to be used in the provision of the services and

CAP. 104.

evidence that they are fit and proper persons;
and

- (d) any other information that the Central Bank may require.

(2) An application for authorisation of an agent under this section shall be submitted by a payment service provider in writing, in the form and manner prescribed by Central Bank, together with the applicable prescribed fees.

(3) An authorisation granted under this section shall be subject to the conditions the Central Bank considers necessary and the Central Bank may, for the purposes of this Act, amend any condition of an authorisation by way of alteration, substitution, addition, omission or other modification.

(4) The Central Bank may, if it considers that the information provided is incorrect, take further action to verify the information and if, after taking action to verify the information, the Central Bank is not satisfied that the information provided pursuant to sub-section (1) is correct, the Central Bank shall refuse to authorise the use of an agent.

(5) The Central Bank shall maintain a Register of agents which shall be available to the public.

(6) A person shall not carry out any activity as an agent of a payment service provider prior to being authorised by the Central Bank for that purpose in accordance with this section.

(7) A payment service provider shall ensure that its agent informs consumers that it is acting as an agent of that payment service provider.

25.—(1) If an operator outsources an aspect of its operation, the operator shall take reasonable steps to ensure that the person to whom the aspect of its operation is outsourced complies with the requirements of this Act.

Liability.

(2) If a payment service provider outsources or uses an agent to perform an aspect of its payment service, the payment service provider shall take reasonable steps to ensure that the agent or the person to whom it is outsourced complies with the requirements of this Act.

(3) An operator or payment service provider shall remain fully liable for any act of an employee, agent, branch or person to whom an aspect of its operation or payment service is outsourced.

Compliance with the Money Laundering and Terrorism (Prevention) Act. CAP. 104.

26.–(1) An operator or payment service provider shall comply with the requirements of the Money Laundering and Terrorism (Prevention) Act, and any Regulations and guidelines made under that Act or adopted by the Central Bank.

(2) An operator or payment service provider shall also guarantee that an agent or any third party acting on their behalf shall comply with all requirements referred to in sub-section (1).

Retention of records.

27.–(1) An operator, participant or payment service provider shall retain all records obtained and produced by them in the course of their operation, provision of a payment service and administration for a period of seven years from the date the record was obtained or produced.

CAP. 229:03.

(2) For the purpose of sub-section (1), records may be retained electronically pursuant to section 6 of the Electronic Transactions Act.

Access to information, and audit.

28.–(1) An operator, participant or payment service provider shall provide any information requested by the Central Bank and produce all books, minutes, accounts, cash instruments, securities, vouchers or any documents relating to its business or the business of its affiliates for the inspection of any examiner appointed by the Central Bank at the time and in the manner as the Central Bank or the examiner specifies.

(2) If the operator, participant or payment service provider provides information or produces any document pursuant to sub-section (1) which is false in any material particular, that operator, participant or payment service provider commits an offence.

(3) The Central Bank may conduct an audit or commission an independent auditor to conduct an audit of the accounts, books, documents and other records of an operator, participant or payment service provider—

- (a) once per annum; or
- (b) when issues arise that are of regulatory concern,

and the operator, participant or payment service provider shall assist the Central Bank to the extent necessary for the purpose of enabling the Central Bank or its independent auditor to carry out an audit.

29.—(1) The Central Bank shall not directly or indirectly disclose to any person any information or document obtained during the exercise of its functions under this Act, except—

- (a) for the purpose of performing its functions under this Act;
- (b) if this is necessary to protect the financial integrity, effectiveness or security of the National Payment System;
- (c) where it is disclosed to a person who is lawfully authorized to receive the information;
- (d) when disclosure is ordered by a court of law; or

Disclosure of information.

- (e) where this is required for the purpose of meeting obligations which Belize entered into under international agreements.

(2) Notwithstanding sub-section (1), the Central Bank may furnish data or information obtained under this Act to an entity in Belize or a foreign entity which is charged with the supervision of a financial market or of natural persons or legal entities that are active in a financial market, unless—

- (a) the purpose for which the data or information will be used is insufficiently specified;
- (b) the intended use of the data or information does not fit the framework of the supervision of financial markets or of natural persons, legal entities and firms active in these markets;
- (c) the supply of the data or information would not be compatible with the laws of Belize or public order;
- (d) the secrecy of the data or information is not adequately guaranteed;
- (e) the supply of the data or information is or may come into conflict with the objects of this Act; or
- (f) it is not sufficiently guaranteed that the data or information will not be used for a purpose other than for which it is supplied.

(3) Where the request for disclosure is related to an investigation into the commission of an offence it shall only be granted with the permission of the Governor of the Central Bank, by order of the court or in accordance with any other law.

(4) A request for data or information shall, if granted, be supplied within a reasonable period to be determined by the Central Bank.

30. Section 29 does not preclude the Central Bank from publishing—

Publication of data.

- (a) in whole or part any information or data obtained under this Act, if—
 - (i) the information published does not disclose the financial affairs of a person other than an operator, payment service provider or participant; or
 - (ii) the person referred to in subparagraph (i) whose financial affairs are being disclosed, gives prior written consent to the publication; or
- (b) without consent, consolidated statements or aggregated data of—
 - (i) information provided under this Act; and
 - (ii) information related to or derived from information provided under this Act.

PART VI

Fees

31.—(1) The Central Bank may prescribe in respect of an operator, participant or payment service provider a charge or fee to defray the direct and indirect costs incurred to provide oversight and regulation pursuant to this Act.

Oversight, regulatory and operational fees and charges.

(2) The Central Bank may also impose a charge or fee for the performance of its operational role and provision of facilities pursuant to section 4.

(3) Section 32(2) applies to fees and charges referred to in this section.

Application and licence fees.

32.—(1) The Central Bank may prescribe fees for each type or class of licence, or authorisation that the Central Bank has authority to grant or give under this Act and these fees may include—

- (a) a non-refundable application fee to cover the cost of processing the application or request for the licence or authorisation;
- (b) an initial licence or authorisation fee which shall be paid when the licence or authorisation is initially granted or given; and
- (c) an annual licence or authorisation fee which shall be paid when a licence or authorisation is renewed.

(2) The fees shall be determined and applied in a fair, equitable and non-discriminatory manner.

PART VII

Infringements and Administrative Measures

Infringements, administrative measures and penalties.

33.—(1) A person who—

- (a) contravenes a provision of this Act, regulations or guidelines made thereunder; or
- (b) breaches a term or condition of a licence or authorization issued under this Act,

commits an infringement if that contravention does not constitute an offence under section 54 or any other provision of this Act.

(2) The Central Bank may take one or more of the following administrative measures in respect of a person, including, but not limited to an operator, participant, payment service provider, its officer, manager or employee thereof, who commits an infringement, namely—

- (a) issue a written warning;
- (b) issue a written order to cease and desist from an infringement and to undertake remedial action;
- (c) issue a written order to perform the acts as are necessary for compliance;
- (d) impose a fine not exceeding two thousand dollars for each day that the infringement continues;
- (e) impose a restriction on participation or provision of a payment service;
- (e) suspend an officer or manager temporarily; and
- (f) suspend or revoke the licence or authorization.

(3) In determining an administrative measure to be taken, the Central Bank shall consider—

- (a) the seriousness of the infringement;
- (b) the actual or potential effect of the infringement on systemic risk;

- (c) the stage at which the infringement was detected;
- (d) whether the infringement was voluntarily reported by the person who committed the infringement; and
- (e) the measure that is appropriate to remedy or terminate the infringement.

(4) A person who fails to comply with an order issued, pay a fine imposed or otherwise comply with administrative measures taken by the Central Bank in accordance with this section commits an offence and is liable on summary conviction in accordance with section 54.

Removal of
officer or
employee.

34. The Central Bank may, by order, remove a person from office as an officer or a director of an operator or payment service provider if the Central Bank is of the opinion that the person is not suitable to hold that office—

- (a) because the person is not a fit and proper person; or
- (b) because by action, omission or negligence, the person has contravened or contributed to the contravention of—
 - (i) a provision of this Act, or of its regulations or guidelines made under this Act;
 - (ii) an order or directive issued under this Act;
 - (iii) a condition of the licence of the operator or payment service provider; or

- (iv) an undertaking given by the operator or payment service provider to the Central Bank.

35.—(1) If the Central Bank intends to take an administrative measure or impose an administrative penalty under sections 33 or 34, the Central Bank shall notify the concerned operator, participant or payment service provider, as well as, where applicable, the concerned officer, manager or employee—

Procedure for administrative measure and penalties.

- (a) of the administrative measure or penalty it intends to take or impose and reasons; and
- (b) of the opportunity to make representations to the Central Bank in relation to the matter within ten days, or any longer period as the Central Bank indicates in the notice.

(2) Notwithstanding sub-section (1), if the Central Bank is of the opinion that the public interest may be prejudiced by a director or officer continuing to exercise the powers or carry out the functions of that office during the period for making representations under sub-section (1)(b), the Central Bank may suspend the officer or director for that period.

(3) A person may appeal the decision of the Central Bank to the Appeals Board established under section 128 of the Domestic Banks and Financial Institutions Act, and the Appeal Board may dismiss the appeal or set aside the decision of the Central Bank but an order to remove a person from office under section 34 is not stayed by an appeal.

CAP. 263.

36.—(1) An administrative penalty payable to the Central Bank shall be due within one month from the date the notice of the administrative penalty was given.

Payments to Central Bank.

(2) The Central Bank may prescribe that a payment due pursuant to sub-section (1) that is not paid by the date it is due

shall be subject to interest from the date due at a rate not exceeding twelve per cent per annum.

(3) The Central Bank shall not impose an administrative penalty on an operator or payment service provider if the licence of that operator or payment service provider is revoked.

PART VIII

Settlement, Netting and Finality of Payment

Settlement of
accounts.

37.—(1) The Central Bank may require a participant to—

- (a) open and maintain settlement accounts on the books of the Central Bank or an operator, including the maintenance of minimum balances, on the terms and conditions as the Central Bank or operator may specify; or
- (b) appoint another participant which has opened a settlement account as a settlement agent, to settle all obligations due from the first-mentioned participant to any other participant arising out of each day's clearing.

(2) In the case where a participant appoints a settlement agent under sub-section (1)(b) the participant shall, before any obligation is settled by the settlement agent on his behalf, give the operator notice in writing of the appointment, accompanied by a written confirmation from the settlement agent of the appointment.

(3) A participant who intends to terminate the appointment of a settlement agent, shall notify the operator in writing not less than fifteen days before the date of termination of the appointment.

38.—(1) An operator shall specify the rules to achieve finality in its operations, in accordance with the provisions of this Act and as prescribed by any rules, regulations or directives issued by the Central Bank and shall include rules establishing irrevocability of orders once these have entered into the system, unless special conditions apply.

Finality of payment.

(2) The entry or payment that has been effected in terms of sub-section (1) shall not be revoked, reversed, or set aside, including, without limitation, by insolvency or bankruptcy proceedings or any other law similar in purpose and effect, and is not subject to any provision of law or order of an administrative or judicial authority that operates as a stay of that payment.

39.—(1) The rights and remedies of an operator, participant, clearing house, central counter-party or any other third party in the system and the Central Bank with respect to collateral granted to it as security for a payment or the performance of an obligation incurred in a system shall not be affected by insolvency or bankruptcy proceedings or any other law similar in purpose and effect.

Collateral for payment and settlement.

(2) The rights and remedies referred to in sub-section (1) shall not be the subject of any stay provision or order affecting the ability of creditors to exercise rights and remedies with respect to the collateral.

PART IX

Winding Up and Administration of an Operator or Participant

40. If an operator or participant in a system is wound up or placed in scheme of administration, the operator or participant at whose instance the winding up or the administration order or the decision, as the case may be, was issued, shall with no delay lodge a copy of the order or decision with the Central Bank.

Central Bank to be notified of winding up.

Prohibition. **41.** An operator or participant against which a winding-up application or scheme of administration has been lodged or decision for voluntary dissolution is made shall be prohibited from operating or participating in any system until the application or scheme is disposed of or finally determined.

Winding up or administration of participants not to affect finality. **42.** Notwithstanding anything to the contrary in any enactment relating to insolvency or bankruptcy—

- (a) the winding up of; or
- (b) the opening of scheme of administration in relation to,

a participant, shall not affect the finality or irrevocability of any entry or payment which became final and irrevocable pursuant to section 38, before the copy of the relevant order or decision was lodged with the Central Bank.

Rules of system to bind liquidator. **43.—(1)** A liquidator or administrator shall, where a participant is wound up or placed in administration or otherwise declared insolvent by a court, be bound by any provision contained in a written netting arrangement to which the participant is a party or any netting rules and practices applicable to the system of the participant concerned in respect of any payment or settlement obligation—

- (a) which has been determined through netting prior to the issue of the winding-up or arrangement order, as the case may be; and
- (b) which is to be discharged on or after the date of the winding-up or arrangement order or discharge of which was overdue on the date of the winding-up or scheme of administration order, as the case may be.

(2) Sub-section (1) shall apply notwithstanding anything to the contrary in any other law for the time being in force in Belize.

44. The provisions of this Part shall not restrict or preclude any person from enforcing his rights under the law in so far as it does not affect the finality of payment instruction or settlement or the validity and enforceability of a netting arrangement under this Part.

Preservation of rights.

45.-(1) In the event of insolvency of a foreign participant, the rights and obligations of that foreign participant relating to settlement shall be governed by the laws of Belize.

Conflict of laws provisions.

(2) In this section “foreign participant” means a participant operating in Belize but whose base of origin, whether by incorporation, registration, licensing, ownership, citizenship, nationality or otherwise, is outside Belize.

PART X

Provisions Affecting Cheques

46.-(1) A bank may present a cheque for payment to the bank on whom it is drawn by notifying that bank of the essential features of the cheque by—

Presentment of cheque.

- (a) the physical cheque;
- (b) the electronic image; or
- (c) the data.

(2) For the purposes of this section, the essential features of a cheque are—

- (a) the serial number of the cheque;

- (b) the code which identifies the bank on whom the cheque is drawn;
- (c) the account number of the drawer of the cheque;
- (d) the amount of the cheque as entered by the drawer of the cheque; and
- (e) any other feature which the Central Bank prescribes from time to time.

(3) Notwithstanding sub-sections (1) and (2), the Central Bank shall determine and indicate in guidelines the form in which a cheque is to be presented for the purpose of a clearing house.

Electronic
presentation of
cheque.

47.—(1) For the avoidance of doubt, where a cheque is presented in an electronic form pursuant to section 46 (1) or (2), the cheque shall not be taken to have been made outside of the ordinary course of business, in bad faith or negligent because it is made by electronic means rather than by presentment of the physical cheque.

(2) If, before the close of business on the next business day following presentment of a cheque under this section, the bank on whom the cheque is drawn requests the bank by whom the cheque was presented to present the physical cheque—

- (a) the presentment under this section shall be disregarded; and
- (b) this section shall not apply in relation to the subsequent presentment of the cheque.

(3) A request under sub-section (2) for the presentment of a cheque shall not constitute dishonour of the cheque by non-payment.

(4) Where presentment of a cheque is made under this section, the bank who presented the cheque and the bank on whom it is drawn shall be subject to the same duties in relation to the collection and payment of the cheque as if the cheque itself had been presented for payment.

PART XI

Electronic Funds Transfer and Electronic Money

48.—(1) An electronic funds transfer and a record of an electronic funds transfer is enforceable and has the evidentiary value in accordance with the Electronic Transactions Act and Electronic Evidence Act.

Enforceability and evidence of electronic funds transfer.
CAP 229:03.
CAP 95:01.

(2) The Central Bank shall, in the implementation of the provisions of this Act, make or issue regulations, instructions or other relevant measures within its powers to cover specific issues on payment orders and money transfers executed by electronic messages, including, when relevant, protection of consumers of electronic payment instruments.

49. An applicant for a licence as a payment service provider who intends to issue electronic money, shall, in addition to the requirements for a licence under Part III, satisfy the Central Bank that the following conditions are met—

Issuance of electronic money.

- (a) the provision of electronic money shall not include the provision of credit;
- (b) electronic money providers shall provide statistics on electronic money loaded and redeemed values in their periodic financial statements and shall also be able to provide sufficient and reliable information to the Central Bank to monitor and control the quantity and velocity of electronic money supply in the economy;

- (c) clearing and settlement mechanisms shall facilitate rapid provision of final settlement after a payment instruction has been initiated in the banking system, according to time limits that the Central Bank may establish from time to time; and
- (d) issuers shall be obliged to redeem electronic money value in Central Bank money, at par, upon request and the management of the underlying float and redemption of electronic money value by the issuer to the holder shall be clearly defined.

PART XII

Miscellaneous Provisions

Transparency of fees.

50.—(1) The Central Bank shall require a payment service provider and an operator who imposes or applies a fee, charge or tax on any consumer for providing a service within the National Payment System to provide notice in accordance with sub-sections (2) and (3) to the consumer of the imposition and amount of the fee.

(2) The notice required under sub-section (1) with respect to any fee, charge or tax for a payment service provider shall be displayed prominently and conspicuously at the location or facility where the consumer may initiate or request the service.

(3) The notice required under sub-section (1) for a payment service provider shall be in the form as may be required by the Central Bank.

(4) A payment service provider and an operator shall not impose a fee in connection with any service initiated by a consumer where the notice as required under sub-section (1) has not been satisfied.

51.—(1) A payment service provider shall, in accordance with the rules and guidelines of the Central Bank, disclose the terms and conditions of a payment service involving a consumer’s account in a manner clearly understood by the consumer, at the time the consumer contracts for the payment service.

Disclosure of terms and conditions.

(2) The terms and conditions to be disclosed under subsection (1) include—

- (a) the consumer’s liability for unauthorized payment service and notice of the advisability of prompt reporting of any loss, theft, or unauthorized use of a card, access code or other means of access;
- (b) the telephone number of the person to be notified in the event the consumer believes that an unauthorized payment service has been or may be effected;
- (c) the procedures to verify that the consumer had made the notification under paragraph (b) and when the notification was made;
- (d) the maximum execution time for any kind of payment to be executed;
- (e) the kind and nature of the payment service which the consumer may initiate, including any limitations on the frequency or amount of the payment service;
- (f) any charges for the payment service transfers or for the right to make the payment service;
- (g) the consumer’s right to stop payment of a preauthorized payment service and the procedure to initiate a stop;

- (h) the consumer's right to receive information of a payment service;
- (i) a summary of the error resolution procedures and the consumer's rights thereunder;
- (j) the bank or payment service provider's liability to the consumer;
- (k) the circumstances under which the bank or payment service provider will in the ordinary course of business disclose information concerning the consumer's account to third parties; and
- (l) a notice to the consumer that a fee may be imposed if the consumer initiates a transfer from an automated teller machine or other electronic terminal that is not operated by the issuer of the card or other means of access.

(3) The terms and conditions shall be written in clear concise language.

(4) A payment service provider shall notify a consumer in writing or by any other means as may be required by the Central Bank from time to time, at least twenty-one days prior to the effective date of any change in any term or condition of the consumer's account required to be disclosed, unless the change is immediately necessary to maintain or restore the security of a payment system or a consumer's account.

Settlement of disputes by arbitration.
CAP. 125.

52. Any dispute between an operator or participant concerning any matter arising under this Act shall be submitted to arbitration pursuant to the Arbitration Act.

Protection of acts done in good faith.

53. The Minister, the Governor of the Central Bank, a director, officer or employee of the Central Bank and any examiner appointed by the Central Bank shall not be liable to

any person for anything done or omitted in the discharge or purported discharge of their functions under this Act, unless it is shown that the act or omission was done in bad faith.

General offences and penalties.

54.—(1) A person who contravenes sections 7, 8, 11(3)(c), 13, 15(2), 23(1), 24(6), 26 or 33(4) commits an offence and is liable on summary conviction—

- (a) in the case of an individual, to a fine of one hundred thousand dollars or to imprisonment for a term of four years, or to both; or
- (b) in the case of a body corporate, to a fine of five hundred thousand dollars,

and if the offence is a continuing one, to an additional fine of ten thousand dollars for every day or part of a day during which the offence continues.

(2) Where an offence under this Act, committed by a body corporate, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer, director, manager or employee of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, commits that offence and is liable on summary conviction to the penalty under subsection (1).

55.—(1) No prosecution in respect of an offence under this Act shall be instituted except by, or with the consent in writing, of the Central Bank or the Director of Public Prosecutions.

Limitation to prosecution.

(2) All prosecutions, actions, suits or other proceedings brought for an offence under this Act shall be brought within five years after the date of the offence committed or the cause of action accrued.

Regulations,
orders, directives
and guidelines.

56.–(1) The Central Bank may issue regulations, orders, directives, guidelines or notices as may be required from time to time for carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of sub-section (1), the Central Bank may, as far as this is necessary for the performance of functions assigned by this Act, issue practice directions concerning, among other things, the management and administrative organisation of the Central Bank as operator.

Transitional
provision.

57.–(1) A person, an entity or the officers of an entity which conducts business relating to the provision of a payment service or operation of a system on the commencement of this Act shall take all necessary measures to have its–

- (a) organisation;
- (b) administration; and
- (c) operations,

comply with the requirements of this Act within six months from the commencement of this Act, and shall, within three months from the commencement of this Act, submit to the Central Bank, a programme for becoming fully compliant by the end of the six-month period.

(2) A person, entity or its officers whose–

- (a) organisation;
- (b) administration; or
- (c) operations,

does not comply in one or more material respects with the requirements of any directive issued by the Central Bank pursuant to this Act, shall comply with the requirements of the directive within the time period to be specified by the directive.