

BANKING (SERVICE TO CUSTOMER) LAW, 5741-1981*

Chapter One: Interpretation

1. Definitions

In this law -

"banking corporation" has the same meaning as in the Banking (Licensing) Law, 5741-1981, and includes an auxiliary corporation within the meaning of that Law;

"service" means any service performed by a banking corporation within the scope of its activity as defined in chapter three of the Banking (Licensing) Law, 5741-1981;

"customer" means a person who receives a service from a banking corporation;

"the Governor" means the Governor of the Bank of Israel appointed under section 8 of the Bank of Israel Law, 5714-1954;

"the Supervisor" means the Supervisor of Banks appointed under section 5 of the Banking Ordinance;

"the Advisory Committee" means the Advisory Committee appointed under section 6 of the Banking Ordinance, 1941, with the addition of a person appointed by the Minister of Finance as a representative of customers.

Chapter Two: Duties of Banking Corporation in Performing Services

2. Duty to provide certain services

(a) A banking corporation shall not unreasonably refuse to provide services within the following categories:

(1) the acceptance of money deposits in Israeli currency or in foreign currency;

(2) the opening of a current account in Israeli currency and the keeping of such account so long as one of the following is the case:

Unofficial Translation

- (a) the account shows a credit balance in favor of the customer;
- (b) the customer abides by the conditions of the agreement between him and the banking corporation as to the keeping of the account;
- (3) the sale of banker's checks in Israeli currency and in foreign currency;
- (4) Repealed.

However, no obligation shall exist to provide a service involving the grant of credit to a customer.

- (b) The attachment of unreasonable conditions to the performance of any service shall be treated as refusal to give it.
- (c) The Governor may, after consultation with the Advisory Committee and with the approval of the Minister of Finance, prescribe by order that the provisions of this section shall apply to additional services.
- (d) Without prejudice to other modes of proving the reasonableness of a refusal as aforesaid, a banking corporation may inform the Supervisor of a business policy adopted by it as to the provision of services, and if the Supervisor does not notify the corporation that he opposes the said policy, a refusal arising out of that policy shall be regarded as reasonable.

3. Customer not to be misled

A banking corporation shall do nothing - by an act or an omission, in writing, orally or in any other manner - that is likely to mislead a customer as to anything material to the performance of a service to him (such an act or omission hereinafter referred to as "a misleading act"). Without prejudice to the generality of the foregoing, the following matters shall be regarded as material:

- (1) the nature and quality of the service;
- (2) the date of the service;
- (3) the yield and benefit which can be derived from the service;
- (4) the identity of the person performing the service;
- (5) the sponsorship, encouragement and authorization given to the performer of the service;

- (6) the ordinary or normal price of the service or the price charged for it in the past;
- (7) a professional opinion given in respect of the nature or quality of the service;
- (8) the conditions of responsibility for the service;
- (9) the duration of the service and the manner of renewing it.

4. Prevention of harm to customer under special circumstances

A banking corporation shall do nothing - by an act or an omission, in writing, orally or in any other manner - that involves taking advantage of the distress of a customer, his mental or physical weakness, his ignorance, his unfamiliarity with a language or his inexperience, or the exertion of undue influence on him, all in order to bring about a service transaction on unreasonable conditions or to give or receive a consideration unreasonably different from the normal consideration.

5. Suitable disclosure

- (a) The Governor may, after consultation with the Advisory Committee and with the approval of the Minister of Finance, prescribe by rules that banking corporations shall, in accordance with such particulars and in such manner as set out in such rules -
 - (1) disclose to their customers every material detail as to the content, scope, conditions and price of a service performed by them and the risks involved therein;
 - (2) indicate certain details in every advertisement of their services;
 - (3) give their customers, at fixed dates, reports on services performed for them and indicate certain details therein;
 - (4) repealed
- (b) Where the Governor has reasonable grounds for believing that it is necessary to do so to prevent a misleading act as referred to in section 3 or harm as referred to in section 4, he may, after consultation with the Advisory Committee and with the approval of the Minister of Finance, by rules require banking corporations to

make a written agreement with the customer, indicate therein the details prescribed in the rules and deliver a signed copy thereof to the customer.

5A. Providing information about charges

- (a) Without derogating from the provisions of Section 5, a banking corporation shall provide its customers with written information about the sums of charges or rates of charges that it applies on account of a service that the Governor, in rules under Section 5, has defined as a main service (in this Section—main service); said information shall be provided in accordance with the provisions in Subsections (b) and (c).
- (b) Information as stated in Subsection (a) that does not pertain to a specific customer shall be shown in a readily visible place in all branches of the banking corporation, and also, if the banking corporation allows its customers to receive notices by electronic transmission - by electronic means.
- (c)
 - (1) At the end of every quarter, the banking corporation shall send each customer who, during the quarter, has been charged for a main service, with notice containing concise information and a summary about all sums charged to him on account of said service.
 - (2) If a customer receives notice as indicated in Paragraph (1) by electronic means, the banking corporation shall be absolved of the obligation to send said notice to the customer.

6. Responsibility for misleading act

Where the advertising of a banking corporation involves a misleading act, the person in whose name the advertising is done and the person who delivered the material for publication and thereby caused it to be published shall be regarded as having committed the act, and if the publisher, editor, printer or distributor or the person who actually decided upon the publication knew that the advertising was misleading, or if the advertising is misleading on the face of it, he, too, shall be regarded as having committed the act.

6A. Advertising aimed at minors

The Governor may prescribe in rules, after consultation with the Advisory Committee and with approval by the Minister of Finance and by the Knesset Economic Committee, principles, rules and conditions for advertising aimed at minors, including the prohibition of advertising that is liable to mislead minors, to exploit their age, naiveté or lack of experience; said rule may apply to minors in general, or up to a certain age.

7. Making service conditional upon purchase of other service

- (a) A banking corporation shall not make the provision of a service conditional upon the purchase of another service, or of any commodity, from it or a person designated by it unless a reasonable business link exists between the desired service and the fulfillment of the condition.
- (b) Without prejudice to other modes of proving the reasonableness of a link as aforesaid, a banking corporation may inform the Supervisor of a business policy laid down by it as to making the giving of a service conditional on the purchase of another service, or any commodity, as specified in subsection (a), and if the Supervisor, after consultation with the Advisory Committee, approves the said policy, a link between a desired service and the fulfillment of a condition as aforesaid shall be regarded as reasonable if it arises out of that policy.

8. Determination of methods of calculation

The Governor may, after consultation with the Advisory Committee and with the approval of the Minister of Finance, enact provisions as to the dates on which credit and debit entries shall be made in a customer's account with a banking corporation and the modes of calculating the interest collected or paid by it or the price charged by it for services. The provisions may be general or specific to particular categories of banking corporations.

9. Restriction

The Governor may, after consultation with the Advisory Committee and with the approval of the Minister of Finance, declare that a particular category of auxiliary corporations shall not be regarded as banking corporations for the purposes of this Law.

9A. Cancellation of charges

- (a) When a customer has paid, by himself and not through a guarantor, all his debits, for the surety of which charges had been created, the banking corporation shall cancel the charges, and if the charged assets are in its possession, it shall place them at the disposal of the customer or of the person who created the charge within two weeks after the payment; if the charge is a mortgage or a registered lien, the banking corporation shall, within 30 days after the payment, submit a notice of the cancellation of the charge to the person with whom the charge is registered; if the banking corporation is a mortgage bank, within its meaning in the Banking (Licensing) Law, 5741-1981, it may submit the said notice within 60 days from the date of the payment.
- (b) The provisions of subsection (a) shall not apply, as long as all the customer's debits secured by those charges have not been paid; if the paid debit was of the category of renewable debits, then the charges shall only be cancelled if the customer requests their cancellation, and the date on which his request reached the banking corporation's branch, at which the debits are kept, shall, for purposes of the times said in subsection (a), be deemed the date of payment.
- (c) The costs of canceling the registration of a mortgage or of a lien as aforesaid shall be borne by the banking corporation.

Chapter Two "A": Change in Repayments Dates of Housing Loans

9B. Definitions

In this Chapter -

"Housing loan" - each of the following:

- (1) a loan given for the purpose of the acquisition of a dwelling;
- (2) a housing loan in the sense of this expression in the Housing Loans Law, 5752-1992;

"Housing loan agreement"- an agreement concluded between a lending banking corporation and a borrower at the time the loan is given (in this Chapter—the Agreement);

"Notice" - written notice to the customer;

"Period for change of loan repayment date"- a four-month period starting on the date on which this Chapter goes into effect, and afterwards - a four-month period starting on April 1 every four years beginning in the year 2005.

9C. Change of date of monthly repayment of housing loan

Notwithstanding the provisions of any law or agreement, a customer who has presented a written request during any period for change of loan repayment date may change the date of the monthly repayment of the housing loan that he has received to the first, the tenth, or the fifteenth of the month, at his discretion.

9D. Restriction concerning arrears in loan repayment

If the customer is in arrears in repaying the housing loan, and as of the date of his request to change the monthly repayment date as stated in Section 9C he has not yet cleared the full debt occasioned by the arrear, or has not come to a settlement with the banking corporation, the banking corporation shall not be required to accede to the request.

9E. Notice from the banking corporation

No later than thirty days before the beginning of each period for change in loan repayment date, a banking corporation shall notify the customer of the latter's right to change the monthly repayment date of the housing loan under the terms established in this Law. The banking corporation may provide the customer with said notice within the framework of its notice to the customer about the annual breakdown of payments on account of the housing loan.

9F. Change in regard to part of the housing loans

A customer may change the monthly repayment date only in regard to all parts of the housing loan. In this Section, the word "**part**" refers to any part of the housing loan to which terms other than those applying to other parts of the law apply, whether one agreement was signed in respect of all parts or whether more than one agreement was signed.

9G. Charges for changing housing loan repayment dates

- (a) For changing the monthly repayment date of a housing loan as stated in Section 9C, the banking corporation may charge a fee at a rate that shall not exceed one hundred twenty-five New Israel Shekel.
- (b) If a customer has taken several housing loans from one banking corporation and wishes to change the monthly repayment date of more than one of said loans, the banking corporation may charge a fee of fifty New Israel Shekel for changing the repayment date of each additional loan, provided that the total fees that the banking corporation charges for changing the repayment dates of all said housing loans not exceed two hundred twenty-five New Israel Shekel.
- (c) The banking corporation shall calculate the interest on account of the difference in the number of days between the original monthly repayment date of the loan and the new monthly repayment date (in this Subsection: the financial reckoning). The financial reckoning shall be performed at the rate of prime less one-quarter percentage point, at the average prime

interest rate of the five largest banks, and the sum obtained from said reckoning shall be added to or subtracted from the sum that the customer shall pay the banking corporation. The Minister of Finance, per approval of the Finance Committee of the Knesset, may in regulations change the interest rate that is used for the financial reckoning performed under the provisions of this Subsection.

- (d) The sums at issue in this Section shall be adjusted on January 1 of each year commensurate with the rate of change in the new index relative to the base index. In this Subsection—

"**Index**" - the Consumer Price Index published by the Central Bureau of Statistics;

"**New index**" - the index most recently published before the adjustment date;

"**Base index**" - the index most recently published before the previous adjustment date.

Date of effect of change

- 9H.** The new date for repayment of loan shall go into effect on the repayment date starting on the month after the month in which the request is presented, provided that at least fourteen days lapse from the date on which the banking corporation is presented with the request for said change.

Chapter Three: Penalties and other Sanctions

10. Penalties

A banking corporation which does one of the following is liable to double the fine set in section 61(a)(3) of the Penal Law, 5737-1977:

- (1) infringes any of the provisions of Chapter Two, excluding Sections 5, 5a, and 8 or any regulation, direction or rule made or issued under such provisions;
- (2) infringes an undertaking given under section 12(a).

11. Responsibility of manager

When an offence under section 10 is committed, a person who, at the time of its commission, is a general manager or active director of the corporation or a senior official thereof responsible for the field in question in the central management or in the branch concerned shall also be guilty thereof and be liable to imprisonment for a term of one year unless he proves -

- (1) that it was committed without his knowledge and his position did not require him to know about it, or
- (2) that after becoming aware that the corporation was about to commit the offence he took all reasonable measures to prevent it from doing so.

11A. Financial sanction

- (a) If the Supervisor has reasonable grounds to assume that a banking corporation has not corrected a deficiency in accordance with Supervisor's Directives given to under Section 16(b), he may impose on [said corporation] a financial sanction in the sum of two hundred fifty thousand New Israel Shekel.
- (b) If the Supervisor has reasonable grounds to assume that a banking corporation has committed one of the following actions, he may impose on [said corporation] a financial sanction in the sum of seven hundred fifty thousand New Israel Shekel.
 - (1) violation of one of the provisions of Section 5A;
 - (2) violation of one of the provisions of Section 9E, or demanding a charge in excess of the maximum sum established in Sections 9G(a) and (b), in contravention of the provisions of said Section.

- (c) If the Supervisor has reasonable grounds to assume that a banking corporation has committed one of the following actions, he may impose on [said corporation] a financial sanction in the sum of one million New Israel Shekel:
 - (1) violation of one of the provisions established in rules under Section 5;
 - (2) violation of one of the provisions of Section 8.
- (d) The Supervisor may not impose a financial sanction that is smaller than that established in this Chapter except under the provisions of Subsection (e).
- (e) The Governor, in consultation with the Minister of Justice, may determine types of events, circumstances, and considerations in which the Supervisor may impose a financial sanction smaller than that established in Subsections (a)–(c), and at rates that he shall determine.
- (f) The provisions of Sections 14j–o of the Banking Ordinance shall apply to financial sanctions under this Section, *mutatis mutandis*.

12. Undertaking by banking corporation

- (a) Where the Supervisor considers that a banking corporation has committed an offence under this Law, he may, with the approval of the Attorney-General or his representative, agree to accept from it a written undertaking concerning one or more of the following:
 - (1) to refrain from an act or omission stated in the instrument of undertaking which, in the opinion of the Supervisor, constitutes an offence under this Law;
 - (2) to compensate the customer;
 - (3) to publish a notice as the Supervisor may direct.
- (b) Where a banking corporation has given an undertaking as provided in this section, no criminal proceedings shall be instituted against it under this Law for an act or omission which was the ground for giving the undertaking and, subject to the decision of the Attorney-General, no such proceedings shall

be instituted against a manager, director or official as referred to in section 11.

- (c) The acceptance of an undertaking under this section shall not derogate from the right of a customer to claim compensation under section 15.

13. Court order to prevent offence

On the application of the Attorney-General or his representative or of the Supervisor, the court may order the doing of any act required to prevent an offence under this Law and the giving of security therefore, including the rectification of a misleading publication.

14. Publication of judgment or of rectification of publication

The court may order that a final judgment in a proceeding under this Law or an abstract thereof or a rectification of a misleading publication shall be published in such form and manner as it may prescribe, and it may direct who shall bear the expenses of publication; if the court directs that the accused shall bear the expenses of publication, they shall be treated as a fine imposed by the court.

15. Compensation

Damage caused to a person by an offence under the provisions of this Law or any regulation made thereunder shall be treated as damage for which compensation is claimable under the Civil Wrongs Ordinance (New Version); for the purposes of this section, it shall be immaterial -

- (1) whether the damage is caused directly or indirectly;
- (2) whether the damage consists in actual loss or in the loss of profits;
- (3) whether the offender is criminally prosecuted or not;
- (4) that the offender did not intend to cause damage or could not have foreseen it.

16. Complaints

- (a) The Supervisor shall investigate complaints by members of the public concerning their business with banking corporations as far as they appear to

him to be of some substance, and he shall exercise his powers under the Banking Ordinance, 1941, for this purpose.

- (b) If the Supervisor finds that the complaint is justified, he shall give notice to such effect to the complainant and to the banking corporation concerned: The notice shall set out the findings of the investigation and the manner in which the defects that have been discovered shall be rectified.
- (c) If the Supervisor finds that the complaint is not justified or that it does not merit investigation by him, he shall give notice to such effect to the complainant: The notice may set out the findings of the investigation.
- (d) The decisions and findings arrived at by the Supervisor in investigating a complaint -
 - (1) shall not grant the complainant or any other person any right or relief in a court or tribunal that he did not have previously;
 - (2) shall not prevent the complainant or any other person from exercising any other right or requesting any other relief to which he is entitled; but if a time is prescribed therefore by any enactment, such time shall not be extended by the submission of a complaint to the Supervisor or its investigation.

Chapter Three "A": Class Action Suit¹

16A. Class action suit

- (a) a person, the Israel Consumer Council or another consumer organization approved by the Minister of Justice under section 31 of the Consumer Protection Law, 5741-1981 (hereinafter: plaintiff) may file suit in the name of a group of persons, on grounds on which the plaintiff can, under this law, file suit in his own name (hereinafter: class action suit).
- (b) If the plaintiff's cause is for damage, it shall suffice that the plaintiff shows that damage has been caused to him.
- (c) A judgment in a class action shall constitute res judicata in respect of all members of the group, subject to the provisions of section 16C(b).

16B. Approval by Court

- (a) Filing a class action requires approval by Court, or Tribunal as appropriate (in this Chapter - the Court) and it shall not approve it unless it is satisfied that the following conditions have been met:
 - (1) the Size of the group justifies filing the suit as a class action suit;
 - (2) there is a reasonable likelihood that substantive questions of fact and of law common to the group will be decided in the class action suit in the group's favor;
 - (3) Filing of a class action suit, rather than the filing of individual suits, is a preferable, justified and fair way of deciding the conflict, under the circumstances;
 - (4) there is a reasonable basis for the assumption that the plaintiff represents the interests of all members of the group in a suitable manner.

¹ The provisions of this chapter shall apply to any cause of action created as of 10th of May, 1996. See Article 3, Class Actions (Amendments to Legislation) Law, 5756 - 1996, Sefer Ha-Chukkim of 5756, p. 306.

- (b) The Court may also take into account any damage liable to be caused to the defendant, to all its customers and to the public by conducting the suit as a class action suit, as opposed to the benefits its conduct in that manner is likely to yield to the group and to the public.

16C. Defining the group

- (a) A Court, approving submission of a suit as a class action suit, shall define the group in whose name the suit is being filed, and shall order the manner in which its decision is to be publicized.
- (b) Every person who belongs to the group defined by the Court shall be deemed to have agreed to the filing of the suit as a class action suit, unless he informed the Court of his desire not to be included in the group, and that within 45 days after the Court's decision was made public; the Court may, on application by a certain person, extend the said period for him, if it found special reasons for doing so.

16D. Arrangement or compromise

A plaintiff shall not abandon a class action suit and shall make no arrangement or compromise with the defendant, unless the Court so approves.

16E. Regulations

- (a) The Minister of Justice shall, prescribe procedures for the filing and conduct of a class action suit, and may prescribe ways for hearing the position of the Attorney General and of the Supervisor.
- (b) The Minister of Justice may make rules regarding ways of proving the damage caused to each member of the group.

16F. Notice

A plaintiff filing a class action suit shall notify the Attorney General and the Supervisor in writing.

16G. Exemption of fees

Filing a class action suit shall be exempt of the payment of Court fees.

16H. Attorney's fee

The fee of the attorney who represented a plaintiff in a class action suit shall require approval by the Court.

16I. Special indemnity and compensation

- (a) A Court adjudging pecuniary compensation in a class action suit may:
- (1) order that the compensation be paid immediately or within a period of time to be set by the Court;
 - (2) order that the compensation be paid in periodic installments, on terms to be set by the Court;
 - (3) order that a part of the adjudged amount, deemed appropriate, after the deduction of costs and attorney's fees, be paid to the plaintiff who assumed the burden of filing and proving the suit, and that the remainder be divided among the members of the group in proportion to the damage suffered by them, or in any other manner as the Court shall order.
- (b) If the Court concludes that pecuniary compensation for all or some members of the group is nor practical under the circumstances of the case, either because they cannot be identified and the payment cannot be effected at a reasonable cost, or due to any other reason, it may order any other relief for the benefit of all or of part of the group or for the benefit of the public, as it finds appropriate under the circumstances of the case.

16J. Other relief not ruled out

The provisions of this Chapter shall not deny a plaintiff under this Law relief under any other Law against the defendant.

Chapter Four: Miscellaneous Provisions

17. Overriding effect of Law

The provisions of this Law shall apply notwithstanding any waiver or agreement to the contrary.

17A. Applicability of Law to guarantor

The provisions of this Law shall also apply to a person who gave surety for a customer towards a banking corporation.

18. Saving of laws

This Law shall add to, and not derogate from, any other law.

19. Implementation and regulations

The Minister of Finance is charged with the implementation of this Law and may, after consultation with the Governor, make regulations as to any matter relating to its implementation.

20. Commencement

This Law shall come into force on the 29th Sivan, 5741 (1st July, 1981).

21. Publication

This Law shall be published within thirty days from the date of its adoption by the Knesset.

MENACHEM BEGIN

Prime Minister

YORAM ARIDOR

Minister of Finance

YITZCHAK NAVON

President of the State

* Sefer Ha-Chukkim of 5741, p. 258 - LSI vol. XXXV p. 312; Sefer Ha-Chukkim of 5752, p. 78; Sefer Ha-Chukkim of 5754, p. 154; Sefer Ha-Chukkim of 5755, p. 34, p. 158, p. 429; Sefer Ha-Chukkim of 5756, p. 306, Sefer Ha-Chukkim of 5758, p. 252, p. 562, Sefer Ha-Chukkim of 5764, p. 368, Sefer Ha-Chukkim of 5765, p. 830.