ELIZABETH II



1989 CHAPTER xvi

An Act to provide for the vesting in National Westminster Bank PLC of the undertaking of International Westminster Bank PLC; and for other purposes. [16th November 1989]

WHEREAS National Westminster Bank PLC (hereinafter called "the Bank") is a public company incorporated under the Companies Acts 1948 to 1967 as a company limited by shares:

And whereas International Westminster Bank PLC (hereinafter called "IWB") is a public company incorporated under the Companies Acts 1908 and 1913 as a company limited by shares and is a wholly-owned subsidiary of the Bank:

And whereas both the Bank and IWB are authorised institutions under the Banking Act 1987 and carry on the business of banking in the United Kingdom and elsewhere, IWB being concerned in both the United Kingdom and the international business of the National Westminster Bank group of companies: 1987 c. 22.

And whereas for the better conduct of the business of the said group, it is expedient that provision be made for the fusion and merger of the undertakings of the Bank and IWB by vesting in the Bank the undertaking of IWB and that that fusion and merger of undertakings should be effected without interference with the conduct and continuity of that business:

And whereas it is expedient that the other provisions in this Act should be enacted:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the International Westminster Bank Act 1989.

Interpretation.

2.—(1) In this Act, unless the subject or context otherwise requires—

"appointed day" means such day as shall be appointed under section 3 of this Act, and for any part of the undertaking means the day so appointed for that part;

"the Bank" means National Westminster Bank PLC;

"customer" means any person having a banking account or other dealing, transaction or arrangement with IWB or, as the case may be, the Bank;

"existing" means existing, outstanding or in force immediately before the appointed day;

"IWB" means International Westminster Bank PLC;

"liabilities" includes duties and obligations of every description (whether present or future, actual or contingent);

"property" means property and assets of every description and rights of every description (whether present or future, actual or contingent), and includes property held on trust or in a fiduciary capacity and securities, benefits and powers of every description;

"security" includes a mortgage or charge (whether legal or equitable), debenture, bill of exchange, promissory note, guarantee, lien, pledge (whether actual or constructive), hypothecation, assignment by way of security, indemnity, right of set-off, undertaking or other means of securing payment or discharge of a liability (whether present or future, actual or contingent);

"the undertaking" means the business and all existing property and liabilities of IWB of whatsoever nature, except documents required to be kept by IWB pursuant to the provisions of the Companies Act 1985 and the liability of IWB in respect of its share capital;

1985 c. 6.

"will" includes a codicil and any other testamentary writing.

(2) In sections 9, 10 and 11 of this Act the appointed day is the day appointed for the general purposes of this Act.

(3) Any reference in this Act to property or liabilities of IWB is a reference to property or liabilities to which IWB is for the time being entitled or subject (whether beneficially or in any fiduciary capacity), wherever such property or liabilities are situated or arise and whether or not capable of being transferred or assigned by IWB, and whether IWB is entitled or subject to the property or liabilities under the law of any part of the United Kingdom or under the law of any country or territory outside the United Kingdom.

Appointed day.

3.—(1) The directors of the Bank shall appoint a day to be the appointed day for the general purposes of this Act and, for the purposes of section 4 (3) of this Act, they may appoint different days for different parts of the undertaking.

(2) Before any day so appointed the Bank shall publish in the London Gazette notice of that day appointed under this section, stating whether it is the appointed day for the general purposes of this Act or for part only of the undertaking and, in the latter case, describing the countries or territories and the property or liabilities for which it is relevant.

Vesting of IWB's undertaking in Bank.

4.—(1) (*a*) Subject as provided in subsections (2) and (3) below, on the appointed day the undertaking shall, by virtue of this Act and without further assurance, vest in the Bank as if in all respects the Bank were the same person in law as IWB.

(*b*) Upon the vesting under this section of the undertaking or any part thereof in the Bank, the Bank shall become indebted to IWB in such amount as the directors of the Bank may determine to be appropriate.

(2) Where the vesting of any property or liabilities of IWB is governed wholly or partly by the law of any country or territory outside the United Kingdom, IWB shall, if the Bank so requires, take all necessary steps for the purpose of securing the vesting thereof in the Bank.

(3) If, by reason of the law of any country or territory outside the United Kingdom, the date for the vesting of any property or liabilities of IWB in the Bank in pursuance of a requirement made under subsection (2) above should in the opinion of the directors of the Bank be later than the appointed day for the general purposes of this Act, the directors of the Bank may appoint that later date as the day for the vesting in the Bank of the part of the undertaking which comprises that property or those liabilities, whether or not that part also includes property or liabilities the vesting of which is wholly or partly governed by the law of the United Kingdom or any other country or territory.

Trust property and wills.

5.—(1) Any property vested in the Bank by virtue of this Act which immediately before the appointed day was held by IWB, whether alone or jointly with any other person, as trustee or custodian trustee of any trust deed, settlement, covenant, agreement or will (whether originally so appointed or not, and whether appointed under hand or seal, or by order of any court), or as executor of the will, or administrator of the estate, of a deceased person or as judicial trustee appointed by order of any court, or in any other fiduciary capacity, shall, on and from the appointed day, be held by the Bank alone or, as the case may be, jointly with such other person, in the same capacity upon the trusts, and with and subject to the powers, provisions and liabilities, applicable thereto respectively.

(2) Any existing instrument or order of any court under or by virtue of which any property became or may become vested in IWB in any such fiduciary capacity and any provision therein or any existing contract or arrangement for the payment to, or retention by, IWB of remuneration for its services in any such fiduciary capacity, shall, on and from the appointed day, be construed and have effect, so far as the context permits, as if for any reference therein to IWB, other than a reference (however worded and whether express or implied) to terms and conditions of IWB or to a scale of fees of IWB, there were substituted a reference to the Bank.

(3) Any will made before the appointed day which has not been proved in any part of the United Kingdom before the appointed day, and any will made on or after the appointed day, being in either case a will which appoints IWB to be an executor, trustee or recipient of any property as trustee, shall be construed and have effect as if for any reference therein to IWB as such executor, trustee or recipient or otherwise in connection with such appointment, not being a reference (however worded and whether express or implied) to any terms and conditions of IWB, or to a scale of fees of IWB, there were substituted a reference to the Bank.

(4) No testamentary gift shall be adeemed by reason only of the operation of any of the provisions of this Act.

Supplementary provisions.

6. Without prejudice to the generality of the foregoing provisions but subject to any provision of this Act to the contrary effect, the following provisions of this section shall have effect in relation to the undertaking or any part thereof:—

(1) Every contract to which IWB is a party (whether in writing or not) shall have effect on and from the appointed day as if—

(*a*) the Bank had been a party thereto instead of IWB;

(*b*) for any reference (however worded and whether express or implied) to IWB there were substituted, as respects anything falling to be done or not to be done on or after the appointed day, a reference to the Bank; and

(*c*) any reference (however worded and whether express or implied) to the directors or to any director, officer or employee of IWB were, as respects anything falling to be done or not to be done on or after the appointed day, a reference to the directors of the Bank or, as the case may require, to such director, officer or employee of the Bank as the Bank may appoint for that purpose or, in default of appointment, to the director, officer or employee of the Bank who corresponds as nearly as may be to the first-mentioned director, officer or employee:

(2) Sub-paragraphs (*b*) and (*c*) of paragraph (1) above shall on and from the appointed day apply to any statutory provision and to any provision of any existing contract to which IWB was not a party; and sub-paragraphs (*a*), (*b*) and (*c*) of that paragraph shall on and from the appointed day apply to any provision of any other existing document (not being a contract or a will) as they apply to a contract to which that paragraph applies:

Provided that the said sub-paragraphs (*a*), (*b*) and (*c*) shall not apply to any existing authorisation or exemption under any enactment regulating the carrying on of the business of IWB:

(3) Any account between IWB and a customer shall, on the appointed day, become an account between the Bank and the customer subject to the same conditions and incidents as theretofore; and such account shall be deemed for all purposes to be a single continuing account:

Provided that nothing herein shall affect any right of the Bank or of the customer to vary the conditions or incidents subject to which any account is kept:

(4) Any existing instruction, order, direction, mandate, power of attorney, authority, undertaking or consent given to IWB (whether in writing or not and whether or not in relation to an account) shall have effect, on and from the appointed day, as if given to the Bank:

(5) Any negotiable instrument or order for payment of money drawn on or given to, or accepted or endorsed by, IWB, or payable at any place of business of IWB, whether so drawn, given, accepted or endorsed before, on or after the appointed day, shall have the same effect on and from the appointed day, as if it had been drawn on, or given to, or accepted or endorsed by the Bank or were payable at the same place of business of the Bank:

(6) The custody of any document or record, goods or other thing held by IWB as bailee shall pass to the Bank on the appointed day, and the rights and obligations of IWB under any contract of bailment relating to any such document or record, goods or thing shall on that day become rights and obligations of the Bank:

(7) (*a*) Any security held immediately before the appointed day by IWB, or by a nominee or agent of or trustee for IWB, as security for the payment or discharge of any liability shall, on and from the appointed day, be held by, or, as the case may require, by that nominee, agent or trustee for, the Bank, and be available to the Bank (whether for its own benefit or, as the case may be, for the benefit of any other person) as security for the payment or discharge of that liability;

(*b*) In relation to any security vested in the Bank in accordance with the provisions of this Act and any liabilities thereby secured, the Bank shall be entitled to the rights and priorities and be subject to the obligations and incidents to which IWB would have been entitled and subject if it had continued to hold the security;

(*c*) Without prejudice to the generality of sub-paragraph (*b*) above, in any case where any existing liability subsists between IWB and the Bank in respect of which IWB or the Bank, or a nominee or agent of or trustee for IWB or the Bank, holds security, that liability shall, for the purpose of enforcing or realising that security, be deemed to continue in effect notwithstanding the vesting in the Bank of the undertaking or any part thereof;

(*d*) Any security referred to in the foregoing provisions of this paragraph which extends to future advances or liabilities shall, on and from the appointed day, be available to the Bank (whether for its own benefit or, as the case may be, for the benefit of any other person) as security for the payment or discharge of future advances and future liabilities to the same extent and in the same manner in all respects as future advances by, or liabilities to, IWB or, as the case may be, the Bank were secured thereby immediately before that day:

(8) Where by virtue of this Act any right or liability of IWB becomes a right or liability of the Bank, the Bank and all other persons shall, on and from the appointed day, have the same rights, powers and remedies (and in particular the same rights and powers as to taking or resisting legal proceedings or making or resisting applications to any authority) for ascertaining, perfecting or enforcing that right or liability as if it had at all times been a right or liability of the Bank, and any legal proceedings or application to any authority existing or pending immediately before the appointed day by or against IWB may be continued by or against the Bank:

(9) Any judgment or award obtained by or against IWB and not fully satisfied before the appointed day shall on that day, to the extent to which it is enforceable by or against IWB, become enforceable by or against the Bank.

Contracts of employment.

7.—(1) Paragraph (1) of section 6 (Supplementary provisions) of this Act applies to a contract for the employment of any person by IWB; and employment with IWB and the Bank under any such contract shall be deemed for all purposes to be a single continuing employment.

(2) No director, secretary or auditor of IWB shall by virtue only of this Act become a director, secretary or, as the case may be, auditor of the Bank.

Pensions.

8. Any pension scheme of IWB shall, on and from the appointed day, become a pension scheme of the Bank and the trust deeds, rules and other instruments constituting or relating to the same shall have effect accordingly.

Evidence: books and documents.

9.—(1) All books and other documents which would, before the appointed day, have been evidence in respect of any matter for or against IWB shall be admissible in evidence in respect of the same matter for or against the Bank.

(2) In this section "documents" has the same meaning as in section 10 of the Civil Evidence Act 1968.

1968 c. 64.

Application of Bankers' Books Evidence Act 1879.

1879 c. 11.

10.—(1) On and from the appointed day the Bankers' Books Evidence Act 1879 shall apply to the books of IWB vested in the Bank by virtue of this Act, and to entries made in those books before the appointed day, as if such books were the books of the Bank.

(2) For the purposes of section 4 of the said Act of 1879, books which have become the books of the Bank by virtue of this Act shall be deemed to have been the ordinary books of the Bank at the time of the making of any entry therein which purports to have been made before the appointed day, and any such entry shall be deemed to have been made in the usual and ordinary course of business.

(3) In this section "books" shall be construed in accordance with section 9 (2) of the said Act of 1879.

Evidence of vesting.

11.—(1) The production of a Queen's Printer's copy of this Act shall, for all purposes, be conclusive evidence of the vesting of any property and liabilities of IWB in the Bank in accordance with the provisions of this Act.

(2) The following provisions of this section have effect without prejudice to the generality of subsection (1) above.

1963 c. 18.

(3) A Queen's Printer's copy of this Act shall, in relation to any registered securities within the meaning of the Stock Transfer Act 1963 vested in the Bank in accordance with the provisions of this Act, operate for all the purposes of the said Act of 1963 as a duly executed stock transfer in respect of the transfer of such securities from IWB to the Bank.

(4) Any document made or executed on or after the appointed day, whereby the Bank or IWB, whether alone or jointly with any other person, conveys or transfers, or purports to convey or transfer, to any person (whether for consideration or not), or applies to be registered as the holder or proprietor of, any property held by IWB immediately before the appointed day, whether alone or jointly with any other person, shall be sufficient evidence that the interest of IWB in that property—

(*a*) in the case of such a document referring to the property as property held by the Bank, is vested in the Bank under this Act; and

(*b*) in the case of such a document referring to the property as property held by IWB, is not vested in the Bank under this Act.

(5) Where there is any other transaction by the Bank or IWB on or after the appointed day in connection with, or in relation to, any property or liabilities which are property or liabilities of IWB immediately before that day, it shall be deemed in favour of any other party to the transaction, or any person claiming through or under him, that the Bank or, as the case may be, IWB has full power and authority for that transaction as if—

(*a*) in the case of a transaction by the Bank, the property or liabilities were vested in it under this Act; and

(*b*) in the case of a transaction by IWB, the property or liabilities were not vested in the Bank under this Act.

(6) A joint certificate given by or on behalf of IWB and the Bank, whether given before, on or after the appointed day, that any property or liabilities specified in the certificate is or is not at the date so specified vested in the Bank under this Act shall be conclusive evidence for all purposes of the fact so certified.

(7) Nothing in subsections (4) and (5) above affects the liability of IWB or the Bank to the other of them in respect of anything done, or purporting to have been done, by either of them in connection with, or in relation to, any property or liabilities.

(8) In this section "convey" has the same meaning as in the Law of Property Act 1925. 1925 c. 20.

Interests in land.

12. The vesting of an interest in land by or under this Act shall not—

(*a*) constitute a purchase or creation of that interest for the purposes of section 30 (2) of the Landlord and Tenant Act 1954; 1954 c. 56.

(*b*) constitute an assignment, transfer, devolution, alienation, parting with possession, dealing with or other disposition of that interest for the purposes of any provision contained in any instrument concerning that interest;

(*c*) give rise to any forfeiture;

(*d*) invalidate or discharge any contract or security; or

(*e*) operate so as to merge any leasehold interest in the reversion expectant on it.

Saving for enactments concerning banking institutions.

13. Nothing in this Act shall exempt the Bank or IWB or any other subsidiary of the Bank from the provisions of any enactment regulating the carrying on of the business of any of them.

Saving for companies.

14. Nothing in this Act shall prejudice the powers of the Bank or, as the case may be, IWB to alter its memorandum and articles of association or to dispose of, or deal with, its assets or to carry on or discontinue any part of its business.

Application to Scotland and Northern Ireland.

15.—(1) This Act shall extend to Scotland and Northern Ireland.

(2) In the application of this Act to Scotland the following provisions shall have effect:—

(*a*) In the construction of this Act—

"assignment" includes an assignation;

"bailee" includes a custodier or a holder on deposit or pledge, and "contract of bailment" includes any other contract regulating custody of things;

"convey" includes the execution of any deed or other instrument or document by which any property, or any estate, interest, security or other right in or over property, is constituted, completed, disponed, assigned, transmitted or discharged;

"debenture" includes a floating charge or any instrument containing a floating charge;

"document" includes any instrument, deed or bond;

"forfeiture" includes an irritancy;

"judgment" includes a decree;

"judicial trustee" includes a judicial factor;

"mortgage" includes a standard security, an assignation or disposition ex facie absolute and any agreement qualifying the same, a bond and disposition or assignation in security, a cash credit bond and disposition or assignation in security, an assignation in security and any real right or burden of whatever kind in the nature of a security; and

"will" includes a trust disposition and settlement and any deed taking effect on the death of any person whereby any part of his estate is disposed of, or under which a succession thereto arises;

(*b*) All standard securities and cash credit bonds and dispositions or assignations in security expressed to be in favour of IWB vested in the Bank by or under this Act shall, on and from the appointed day, have the same effect in favour of the Bank up to such maximum amounts as may be stated therein respectively in all respects as if they had been originally granted in favour of the Bank for such maximum amounts;

(*c*) To enable the Bank to complete a title, if thought fit, to any property vested in it by virtue of this Act by notice of title or otherwise, or to deduce title, this Act shall be deemed to be, and may be used as, a general disposition, conveyance or, as the case may be, assignation of such property in favour of the Bank;

(*d*) For the reference in subsection (2) of section 9 (Evidence: books and documents) of this Act to section 10 of the Civil Evidence Act 1968 there shall be substituted reference to section 17 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968;

1968 c. 64.

1968 c. 70.

(*e*) In section 11 (Evidence of vesting) of this Act, subsection (8) shall be omitted.

(3) In the application of this Act to Northern Ireland—

(*a*) for the reference in subsection (2) of section 9 (Evidence: books and documents) of this Act to section 10 of the Civil Evidence Act 1968 there shall be substituted reference to section 6 of the Civil Evidence Act (Northern Ireland) 1971;

1971 c. 36 (N.I.).

(*b*) the reference in subsection (3) of section 11 (Evidence of vesting) of this Act to the Stock Transfer Act 1963 shall include a reference to the Stock Transfer Act (Northern Ireland) 1963; and for the reference in subsection (8) of that section to the Law of Property Act 1925 there shall be substituted reference to the Conveyancing and Law of Property Act 1881;

1963 c. 18.
1963 c. 24 (N.I.).
1925 c. 20.
1881 c. 41.

(*c*) for paragraph (*a*) of section 12 (Interests in land) of this Act there shall be substituted the following:—

"(*a*) constitute a purchase or creation of an estate for the purposes of section 10 (3) of the Business Tenancies Act (Northern Ireland) 1964;".

1964 c. 36 (N.I.).

PRINTED IN ENGLAND FOR PAUL FREEMAN
Controller and Chief Executive of Her Majesty's Stationery Office and
Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE
£2.00 net
ISBN 0 10 511689 0

International Westminster Bank Act 1989

CHAPTER xvi

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Appointed day.
4. Vesting of IWB's undertaking in Bank.
5. Trust property and wills.
6. Supplementary provisions.
7. Contracts of employment.
8. Pensions.
9. Evidence: books and documents.
10. Application of Bankers' Books Evidence Act 1879.
11. Evidence of vesting.
12. Interests in land.
13. Saving for enactments concerning banking institutions.
14. Saving for companies.
15. Application to Scotland and Northern Ireland.