

ELIZABETH II



1969 CHAPTER XIII

An Act to carry into effect the transfer to Barclays Bank Limited of the undertaking of Martins Bank Limited; and for other purposes. [16th May 1969]

WHEREAS—

- (1) Barclays Bank Limited (hereinafter called "Barclays") a company incorporated under the Companies Acts 1862 to 1960 as a company limited by shares and carries on in the United Kingdom and elsewhere the business of banking, including the business of acting as executor and trustee;
- (2) Martins Bank Limited (hereinafter called "Martins") a company incorporated under the Companies Acts 1862 to 1960 as a company limited by shares and also carries on in the United Kingdom and elsewhere the business of banking, including the business of acting as executor and trustee;

(3) In pursuance of a scheme of arrangement under section 42 of the Companies Act 1948 between Martins and its creditors which became effective on the 1st November, 1968, Martins has become and now is a wholly-owned subsidiary of Barclays Bank Limited.

(4) Martins Bank Trust Company Limited is a company incorporated under the Companies Acts 1948 to 1967 as a company limited by shares and carries on in the United Kingdom the business of acting as executor and trustee and is a wholly-owned subsidiary of Martins:

(5) For the better conduct of the businesses of Barclays Bank Limited and Martins it is expedient to make provision for the fusion of the undertakings by the transfer to Barclays of the undertakings of Martins as provided in this Act, to make such provision as is herein enacted in relation to the said Trust Company and to dissolve Martins:

(6) It is expedient that the other provisions contained in this Act should be enacted:

(7) 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, 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 Barclays Bank Act 1969.

Interpretation.

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

"the appointed day" means the 1st January, 1970, or such earlier day as may be appointed under subsection (2) of this section;

"Barclays" means Barclays Bank Limited;

"customer" includes any person having a banking or other dealing, transaction or arrangement with Barclays or Martins (as the case may be) in the course of business;

"existing" means existing or in force (as the case may be) immediately before the appointed day;

"Martins" means Martins Bank Limited as existing immediately before the appointed day;

"security" includes a mortgage or charge (whether legal or equitable), debenture, guarantee, lien, pledge (whether actual or constructive), hypothecation, indemnity, assignment or other means of securing payment or discharge of a debt or liability or obligation (whether present or future, actual or contingent);

(2) structure and include
(3) Barclays Bank Limited
the
3. liability
whether
situation
benefit
Act
Barclays
under
Bank
(2) referred
than
shall
acts a
be ne
accord
shall
such
direct
(3)
(a)
(b)
(c)
(d)

“the Trust Company” means Martins Bank Trust Company Limited;

“will” includes a codicil and any other testamentary writing.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment including this Act.

(3) The Board of Trade may, on an application made by Barclays, by order made by statutory instrument appoint a day earlier than the 1st January, 1970, to be the appointed day for the purposes of this Act.

3.—(1) On the appointed day all existing property, rights, liabilities and obligations of Martins of whatsoever nature, and whether or not assignable at law or in equity, and wheresoever situate, and whether Martins holds or is subject to the same beneficially or in any fiduciary capacity, shall, by virtue of this Act and without further assurance, be transferred to, and vest in, Barclays to the intent that Barclays shall succeed to the whole undertaking of Martins and to the right to use the name “Martins Bank”.

Transfer of
Martins'
undertaking
to Barclays

(2) Where the transfer or vesting of any property or right referred to in subsection (1) of this section is governed otherwise than by the law of any part of the United Kingdom, Barclays shall have power, after the dissolution of Martins, to do such acts and execute such documents in the name of Martins as may be necessary or expedient to perfect such transfer or vesting in accordance with the law applicable thereto and to affix the common seal of Martins to any such document; and for the affixing of such common seal and the attestation thereof a resolution of the directors of Barclays shall be sufficient authority.

(3) No transfer or vesting effected by virtue of this Act shall—

(a) operate as a breach of covenant or condition against alienation;

(b) give rise to any forfeiture;

(c) invalidate or discharge any contract or security;

(d) operate so as to merge any leasehold interest so transferred to, or vested in, Barclays in the reversion expectant thereon held by Barclays immediately before the appointed day, or to merge any leasehold interest held by Barclays immediately before the appointed day in the reversion expectant thereon transferred to, or vested in, Barclays by virtue of this Act; or

1954 c. 56.

Provisions as
to trust
property
transferred

(c) be taken as the purchase or creation of an interest for the purposes of section 30 (2) of the Landlord and Tenant Act 1954.

4. (1) Any property or rights transferred to, and vested in, Barclays by virtue of this Act which immediately before the appointed day were held by Martins, whether alone or jointly with any other person

(a) as trustee or custodian trustee of any trust deed, instrument, covenant, agreement or will, and whether or not so appointed or not, and whether appointed under a will or seal, or by order of any court;

(b) as executor of the will of a deceased person;

(c) as administrator of the estate of a deceased person;

(d) as judicial trustee appointed by order of any court;

(e) in any other fiduciary capacity whatsoever;

shall, on and from the appointed day, be held by Barclays, alone or jointly with such other person, in the same capacity as the trusts, and with and subject to the powers, provisions, liabilities and obligations, applicable thereto respectively.

(2) Any existing instrument or order of any court under the virtue of which any property or rights became vested in Martins in any such fiduciary capacity (including in the case of any grant of probate thereof), and any provision therein relating to any existing contract or arrangement for the payment to, or by, Martins of remuneration for its services in any such fiduciary capacity, shall, on and from the appointed day, be construed as if it had effect, so far as the context permits, as if for any reference therein to Martins, other than a reference (however worded) to terms and conditions of any contract or to a scale of fees of Martins, there were substituted a reference to Barclays.

Employment of
officers,
clerks and
servants.

5. Any officer, clerk or servant employed by Martins immediately before the appointed day shall, in pursuance of this Act, on that day become an officer, clerk or servant (as the case may be) of Barclays on terms and conditions of employment not less favourable than those on which he was so employed immediately before the appointed day; and such employment with Martins and Barclays respectively shall be deemed for all purposes to be a single continuing employment:

Provided that no director, secretary or auditor of Martins shall by virtue only of this Act become a director, secretary or auditor (as the case may be) of Barclays.

Pensions.

6.—(1) The trust deeds and rules constituting or relating to the Martins Bank Non-Contributory Pension Scheme, the

Ba
Co
Ba
an
co
for
relthi
ent
Fu.
Fu7
pr
con

Bank Superannuation Fund, the Martins Bank Limited Non-Contributory Pensions Scheme for Messenger Staff, the Martins Bank Death Benefit Fund and the Martins Bank Limited Widows and Orphans Fund 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 Martins there were substituted a reference to Barclays.

(2) No officer, clerk or servant of Martins who, by virtue of this Act, becomes an officer, clerk or servant of Barclays shall be entitled as of right to participate in the Barclays Bank Pension Fund or to become a member of the Barclays Bank Widows Fund.

7. Without prejudice to the generality of the foregoing provisions of this Act but subject to any provision therein to the contrary effect — Supplementary provisions as to transfer.

(1) Every existing contract to which Martins was a party (whether in writing or not) shall on and from the appointed day be construed and have effect as if —

(a) Barclays had been a party thereto instead of Martins;

(b) for any reference (however worded and whether express or implied) to Martins there were substituted, as respects anything falling to be done on or after the appointed day, a reference to Barclays; and

(c) any reference (however worded and whether express or implied) to the directors or to any director, officer, clerk or servant of Martins were, as respects anything falling to be done on or after the appointed day, a reference (as the case may require) to the directors of Barclays or to such director, officer, clerk or servant of Barclays as Barclays may appoint or, in default of appointment, to the director, officer, clerk or servant of Barclays who corresponds as nearly as may be to the first-mentioned director, officer, clerk or servant.

(2) The provisions of sub-paragraphs (b) and (c) of paragraph (1) of this section shall apply to any statutory provision, to any provision of any existing contract to which Martins was not a party and to any provision of any other existing document (not being a contract or a will) as they apply in relation to a contract to which paragraph (1) of this section applies.

(3) Any account between Martins and a customer shall, on and from the appointed day, become an account

between Barclays and the customer subject to the conditions and incidents as theretofore; an account shall be deemed for all purposes to be a continuing account:

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

- (4) Any existing instruction, direction, mandate, or authority, attorney, authority or consent given to Martins (in writing or not and whether or not in relation to the account) shall have effect, on and from the appointed day, as if given to Barclays.
- (5) Any negotiable instrument or order for payment of money, whether drawn, given, accepted or endorsed before, on or after the appointed day, which is payable to be drawn on, or given to, or accepted or endorsed by Martins, or payable at any place of business of Martins 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, Barclays, or payable at the same place of business of Barclays.
- (6) Any security transferred to Barclays by virtue of which immediately before the appointed day it was held by Martins as security for the payment or discharge of any debt or liability or obligation (whether present or future, actual or contingent) shall, on and from the appointed day, be held by, and be available to, Barclays as security for the payment or discharge of such debt or liability or obligation; and any such security which extends to future advances or liabilities shall, from the appointed day, be held by, and be available to, Barclays as security for future advances by, or liabilities to, Barclays in the same manner in which it was held by, or available to, Martins as security for future advances by, or liabilities to, Martins immediately before that day.
- (7) Where by the operation of any of the provisions of this Act any right, liability or obligation becomes a right, liability or obligation of Barclays, Barclays and the customer 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, liability or obligation as if it had at all times been a right, liability or obligation of Barclays; and

of
da
ap
the
the
cor
the
in:
will
c
app
aga
sam
C
as
Erie
to E
the
(2
so
ordin
entr
app
mad
C
Boul
11.
shall,
the

proceedings or applications to any authority pending immediately before the appointed day by or against Martins may be continued by or against Barclays.

(8) Any judgment or award obtained by or against Martins and not fully satisfied before the appointed day shall be enforceable by or against Barclays.

8.—(1) No testamentary gift shall be admissible by reason only of the operation of any of the provisions of this Act.

Reference to Martins in wills

(2) Any will, whether made before, on or after the appointed day, by a person dying on or after the appointed day which appoints, or purports to appoint, Martins to be executor or trustee thereof shall be construed and have effect as if for any reference therein to Martins as such executor or trustee or otherwise in connection with such appointment other than a reference (however worded and whether express or implied) to terms and conditions of Martins published before the date of the will or to a scale of fees of Martins published before the date of the will, there were substituted a reference to the Trust Company, and, in a case where the Trust Company did not exist at the date of the will, as if it had then existed.

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

Evidence and books and documents

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

1968, c. 64

10.—(1) On and from the appointed day, the Bankers' Books Evidence Act 1879 shall apply to the books of Martins transferred to Barclays by virtue of this Act, and to entries made therein before the appointed day, as if such books were the books of Barclays.

Application of Bankers' Books Evidence Act 1879

(2) For the purposes of section 4 of the said Act of 1879, books so transferred to Barclays shall be deemed to have been the ordinary books of Barclays 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" has the same meaning as in the Bankers' Books Evidence Act 1879.

11. The production of a Queen's Printer's copy of this Act in full, for all purposes, be conclusive evidence of the transfer of property, rights, liabilities and obligations of Martins to

Evidence of transfer of property

Barclays and of the vesting thereof in Barclays in accordance with the provisions of this Act; and, without prejudice to the generality of the foregoing, any such copy of this Act shall, in relation to registered securities within the meaning of the Stock Transfer Act 1963, transferred to, and vested in, Barclays by virtue of this Act, operate for all the purposes of the said Act of 1963 as if duly executed stock transfer in respect of the transfer of such securities from Martins to Barclays.

1963 c. 18.

Saving for
Barclays.

12. Nothing in this Act shall derogate from or prejudice the powers of Barclays to alter its memorandum and articles of association or to dispose of, or deal with, its assets or to carry on or discontinue its business or any part thereof.

Dissolution of
Martins.

13. At any time after the appointed day the Registrar of Companies may, at the request of Barclays, strike Martins off the register and thereupon Martins shall be dissolved.

Application
of Act to
Scotland and
Northern
Ireland.

14.—(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—

the expression "debenture" includes a mortgage or charge or any instrument containing a mortgage or charge;

the expression "judicial trustee" includes a factor;

the expression "mortgage" includes an assignment or disposition *ex facie* absolute and any assignment or disposition qualifying the same, a bond and disposition or assignment in security, a cash credit bond and disposition in security, an assignment in security, or any real right or burden of whatever kind in respect of a security;

the expression "probate" includes confirmation and executors; and

the expression "will" includes a trust deed, a 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 cash credit bonds and dispositions or assignments in security expressed to be in favour of Martins transferred to, and vested in, Barclays on the appointed day by virtue of this Act shall, on and from that day,

Inc
wi
de
me

Inc
Act

FIN

same effect in favour of Barclays up to the maximum amounts stated therein respectively in all respects as if they had been originally granted in favour of Barclays for such maximum amounts.

(e) All property heritably vested in Martins redeemably or irredeemably which is by virtue of this Act transferred to, and vested in, Barclays shall be so transferred to, and vested in, Barclays to the same effect as if the title of Barclays thereto had been recorded in the Register of Sasines.

(3) (a) For the purposes of section 6 of the Government of Ireland Act 1920, this Act shall, so far as it relates to matters within the powers of the Parliament of Northern Ireland, be deemed to be an Act passed before the appointed day within the meaning of that section.

(b) In the application of this Act to Northern Ireland

(i) for paragraph (e) of subsection (3) of section 3 (Transfer of Martins' undertaking to Barclays) of this Act there shall be substituted the following paragraph:

"(e) be taken as the purchase or creation of an estate for the purposes of section 10(3) of the Business Tenancies Act (Northern Ireland) 1964";

(ii) for the reference in section 11 (Evidence of transfer) of this Act to the Stock Transfer Act 1963 there shall be substituted reference to the Stock Transfer Act (Northern Ireland) 1963.

15. The costs, charges and expenses preliminary to, and of and incidental to, the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by Barclays.

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

1969