

ELIZABETH II



1970 CHAPTER xxxix

An Act to transfer to Barclays Bank Trust Company Limited the executor and trustee business of Barclays Bank Limited; and for other purposes.

[23rd July 1970]

WHEREAS—

(1) Barclays Bank Limited (hereinafter called “Barclays”) is a company incorporated under the Companies Acts 1862 to 1890 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) Barclays Bank Trust Company Limited (hereinafter called “the Trust Company”) is a company incorporated under the Companies Acts 1948 to 1967 as a company limited by shares:

(3) Before the appointed day for the purposes of the Barclays Bank Act 1969, Martins Bank Limited (hereinafter called 1969 c. xiii. “Martins”) carried on in the United Kingdom and elsewhere the business of banking, including the business of acting as executor and trustee, and the Trust Company, formerly named Martins Bank Trust Company Limited, was a wholly owned subsidiary of Martins carrying on in the United Kingdom a separate business of acting as executor and trustee:

1969 c. xiii.

(4) By the Barclays Bank Act 1969 the whole undertaking of Martins, including its said business of acting as executor and trustee, was, on the said appointed day, transferred to and vested in Barclays:

(5) The Trust Company is now a wholly owned subsidiary of Barclays and its name was changed to its present name on the 1st October, 1969:

(6) For the better conduct of the businesses of Barclays and the Trust Company it is expedient to make such provision as is herein enacted for the transfer to the Trust Company of that part of the business of Barclays which consists of acting as executor and trustee (including all such business so transferred from Martins and vested in Barclays by the Barclays Bank Act 1969) to the intent that the whole of the businesses of acting as executor and trustee carried on by Barclays and the Trust Company may be carried on as one business by the Trust Company:

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

(8) 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 and collective titles.

1.—(1) This Act may be cited as the Barclays Bank Trust Company Act 1970.

(2) The Barclays Bank Act 1969 and this Act may be cited together as the Barclays Bank Acts 1969 and 1970.

Interpretation.

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

“ Barclays ” means Barclays Bank Limited;

“ existing ” means existing or in force (as the case may require) immediately before the specified date;

“ the specified date ” means 1st October, 1970;

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

“ trust instrument ” means a trust deed, a settlement, a deed of covenant creating trusts of the moneys covenanted to be paid, a policy of assurance creating trusts of the policy moneys or a written instrument constituting a pension scheme;

“ 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.—(1) Except as provided in section 4 (Exceptions from transfer) of this Act, this section applies to all property and rights, of whatsoever nature and wheresoever situate, which immediately before the specified date were held by, or vested in, Barclays, whether alone or jointly with any other person—

Transfer of Barclays' trust property to the Trust Company.

- (a) as trustee or custodian trustee of any trust instrument or will, and whether originally so appointed or not;
- (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; or
- (e) as trustee or custodian trustee, by virtue of an express appointment, for any club or other unincorporated association or body of persons.

(2) On the specified date all property and rights to which this section applies shall, by virtue of this Act and without further assurance, be transferred to and vest in the Trust Company and shall, on and from the specified date, be held by the Trust Company in place of Barclays, whether alone or jointly with such other person as aforesaid, in the same capacity, upon the trusts, and with and subject to the rights (including any right to remuneration), powers, provisions, liabilities and obligations applicable thereto respectively.

(3) Any existing instrument or order of any court under or by virtue of which (whether alone or by the operation of the Barclays Bank Act 1969) such property or rights became so vested in Barclays (including in the case of a will any grant of probate thereof), and any provision therein or any existing contract or arrangement for the payment to, or retention by, Barclays of remuneration for its services in any such capacity as aforesaid, shall, on and from the specified date, be construed and have effect, so far as the context permits, as if for any reference therein (whether original or by the operation of the Barclays Bank Act 1969) to Barclays as acting in any such capacity as aforesaid (other than a reference, however worded and whether express or implied, to terms and conditions of Barclays published or in force before the specified date or to a scale of fees or terms of remuneration of Barclays published, charged or in force before the specified date), there were substituted a reference to the Trust Company and, in a case where the Trust Company did not exist at the date thereof, as if it had then existed.

1969 c. xiii.

(4) Where the transfer or vesting of any property or rights to which this section applies is governed otherwise than by the law of any part of the United Kingdom, Barclays shall do and execute all such acts, documents and things as may be necessary or expedient to perfect such transfer or vesting in accordance with the law applicable thereto.

- (5) 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; or
 - (d) operate so as to merge any leasehold interest so transferred to, or vested in, the Trust Company in the reversion expectant thereon held by the Trust Company immediately before the specified date or to merge any leasehold interest held by the Trust Company immediately before the specified date in the reversion expectant thereon transferred to, or vested in, the Trust Company by virtue of this Act.

Exceptions
from transfer.

4. The provisions of the last foregoing section shall not apply to any property or rights which immediately before the specified date are held by, or vested in, Barclays—

- (a) as trustee of the Barclays Bank Pension Fund; or
- (b) as trustee, whether alone or jointly with any other person, under any agreement or arrangement made or arising in the course of the business of Barclays (other than its business of acting as executor and trustee) for enforcing or securing the payment or discharge of any debt or liability or obligation, whether present or future, actual or contingent.

Supplemen-
tary provisions
as to
transfer.

5.—(1) Where by the operation of any of the provisions of this Act any right, liability or obligation becomes a right, liability or obligation of the Trust Company, the Trust Company and all other persons shall, on and from the specified date, 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 the Trust Company; and any legal proceedings or applications to any authority pending immediately before the specified date by or against Barclays, in so far as they relate to any property, right, liability or obligation transferred to, or vested in, the Trust Company by virtue of this Act, may be continued by or against the Trust Company.

(2) Any existing instruction, direction, mandate, power of attorney, authority or consent given to, or held by, Barclays (whether in writing or not) concerning any property, rights, liabilities or obligations transferred to, or vested in, the Trust Company by virtue of this Act shall have effect, on and from the specified date, as if given to, or held by, the Trust Company.

6. Any will, whether made before, on or after the specified date, by a person dying on or after the specified date which appoints, or purports to appoint, Barclays to be executor or trustee thereof shall be construed and have effect as if for any reference therein to Barclays 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 Barclays published or in force before the specified date or to a scale of fees or terms of remuneration of Barclays published, charged or in force before the specified date), 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.

References to Barclays in wills.

7.—(1) The production of a Queen's Printer's copy of this Act shall for all purposes be conclusive evidence of the transfer to, and vesting in, the Trust Company in accordance with the provisions of this Act of the property and rights of Barclays so transferred and vested by virtue of this Act.

Evidence of transfer.

(2) Without prejudice to the generality of the foregoing—

(a) any such copy of this Act shall, in relation to any registered securities within the meaning of the Stock Transfer Act 1963, transferred to, and vested in, the Trust Company by virtue 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 Barclays to the Trust Company;

1963 c. 18.

(b) any document made or executed on or after the specified date whereby the Trust Company, 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 or rights held by Barclays, whether alone or jointly with any other person, immediately before the specified date shall be sufficient evidence that the interest of Barclays in such property or rights became vested in the Trust Company by virtue of this Act.

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

1925 c. 20.

Application
of Act to
Scotland and
Northern
Ireland.

8.—(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 “judicial trustee” includes a judicial factor;

the expression “probate” includes confirmation of executors; and

the expression “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 property heritably vested redeemably or irredeemably in Barclays (whether alone or jointly with any other person and whether so vested by virtue of any title duly recorded in the Register of Sasines or by virtue of the operation of the Barclays Bank Act 1969) which is by virtue of this Act transferred to, and vested in, the Trust Company shall be so transferred to, and vested in, the Trust Company to the same effect as if the title of the Trust Company thereto had been recorded in the Register of Sasines.

1969 c. xiii.

(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.

1920 c. 67.

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

(i) at the end of subsection (5) of section 3 (Transfer of Barclays’ trust property to the Trust Company) of this Act there shall be inserted 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”;

1964 c. 36
(N.I.).

(ii) for the reference in subsection (2) (a) of section 7 (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.

1963 c. 18.

1963 c. 24
(N.I.).

Costs of Act.

9. 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.

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Barclays Bank Trust Company Act 1970

CHAPTER xxxix

ARRANGEMENT OF SECTIONS

Section

1. Short and collective titles.
2. Interpretation.
3. Transfer of Barclays' trust property to the Trust Company.
4. Exceptions from transfer.
5. Supplementary provisions as to transfer.
6. References to Barclays in wills.
7. Evidence of transfer.
8. Application of Act to Scotland and Northern Ireland.
9. Costs of Act.