



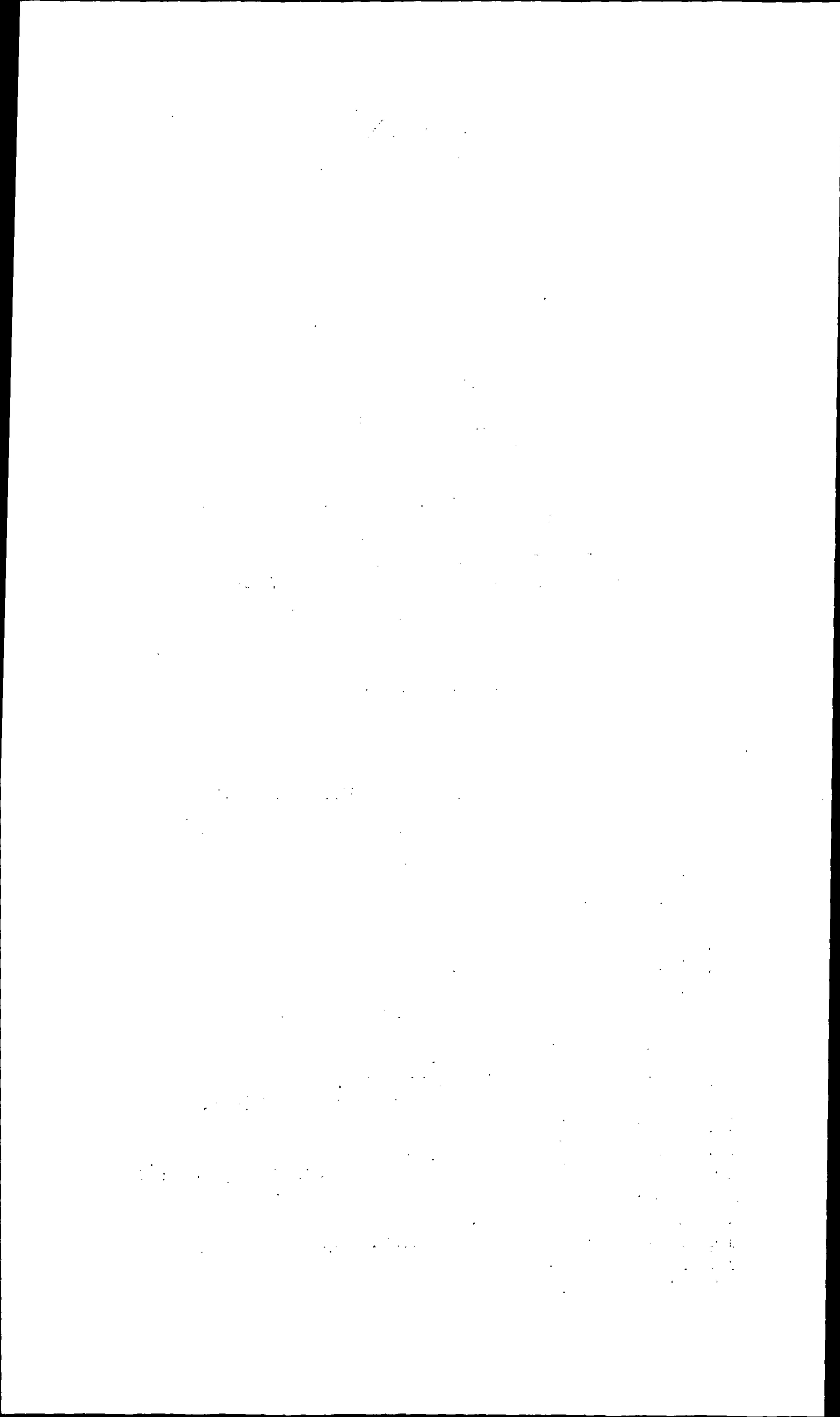
# Samuel Montagu & Co. Limited Act 1976

## CHAPTER ix

### ARRANGEMENT OF SECTIONS

#### Section

1. Short title.
2. Interpretation.
3. Appointed day.
4. Transfer of undertaking.
5. Saving of contracts, etc.
6. Application of enactments and documents.
7. Supplementary provisions as to business.
8. Actions, etc., not to abate.
9. Evidence and books and documents.
10. Application of Bankers' Books Evidence Act 1879.
11. Evidence of transfer.
12. Transfers of interests in land.
13. No exemption from enactments concerning banking companies.
14. Dissolution of MBFC.
15. Application to Northern Ireland.
16. Application to Scotland.
17. Costs of Act.



**ELIZABETH II**



**1976 CHAPTER ix**

An Act to provide for the transfer to Samuel Montagu & Co. Limited of the undertaking of Samuel Montagu (MBFC) Limited and for other purposes incidental thereto and consequential thereon. [27th May 1976]

**WHEREAS—**

(1) Samuel Montagu & Co. Limited (hereinafter referred to as “the Company”) and Samuel Montagu (MBFC) Limited (hereinafter referred to as “MBFC”) both carry on in the United Kingdom and elsewhere the business of banking:

(2) The Company and MBFC are companies within the meaning of the Companies Acts 1948 to 1967 and are limited by shares:

(3) MBFC is a wholly-owned subsidiary of the Company and the Company is a wholly-owned subsidiary of Midland Bank Limited:

(4) For the better conduct of the businesses of the Company and MBFC it is expedient that their respective undertakings should be merged and that the merger should take place by means of the transfer of the undertaking of MBFC to the Company:

(5) It is expedient that the aforesaid transfer should be effected economically and without interference with the conduct and continuity of the respective businesses of the Company and MBFC:

(6) It is further expedient that the said transfer should be effected as provided in this Act and that the other provisions contained in this Act relative thereto and consequential thereon should be enacted:

(7) The purposes of this Act cannot be effected 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 Samuel Montagu & Co. Limited Act 1976.

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

“ the appointed day ” means such day as may be appointed under section 3 (Appointed day) of this Act;

“ the Company ” means Samuel Montagu & Co. Limited;

“ customer ” includes any person having a banking account or other dealing, transaction or arrangement in the course of business with MBFC;

“ enactment ” means an enactment in this Act or in any general or local Act or in any order, rule or regulation made under any Act;

“ liabilities ” includes duties and obligations of every description, whether actual or contingent, present or future;

“ MBFC ” means Samuel Montagu (MBFC) Limited;

“ property ” means property and assets of every description wheresoever situate and includes property held on trust and securities, rights, benefits and powers of every

description, but does not include any document required to be kept pursuant to the provisions of the Companies Acts 1948 to 1967;

“security” means a mortgage or charge (whether legal or equitable), debenture, bill of exchange, promissory note, hypothecation, undertaking, indemnity, guarantee, lien, pledge (whether actual or constructive) or other document or arrangement for securing the payment of a debt, whether present or future, or the discharge of an obligation or liability whether actual or contingent;

“the undertaking” means the business and all of the property vested in or belonging to or held by MBFC immediately before the appointed day and all of the liabilities to which MBFC shall be subject immediately before that day.

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

3.—(1) The Secretary of State may by order appoint a day for the purposes of this Act. Appointed day.

(2) The power conferred by subsection (1) of this section shall be exercisable by statutory instrument.

4.—(1) On the appointed day the undertaking shall by virtue of this Act be transferred to and vest in the Company. Transfer of undertaking.

(2) If any portion of the undertaking cannot be transferred and vested in accordance with this Act because transfers of that portion are governed otherwise than by the law of a part of the United Kingdom then MBFC shall so soon as is practicable after the appointed day take all necessary steps for the purpose of securing that the portion is effectively transferred to and vested in the Company and pending such transfer shall hold the same in trust for the Company.

5.—(1) Subject to the provisions of this Act, all contracts, agreements, conveyances, deeds, leases, licences, guarantees, bonds, indemnities, instructions and other instruments or undertakings entered into by or made with or addressed to MBFC (whether alone or with any other person and whether as principal or agent) before and in force on the appointed day shall on and after that day to the extent that they were previously binding and enforceable against or in favour of MBFC, be binding and of full Saving of contracts, etc.

force and effect in every respect against or in favour of the Company as fully and effectually as if, instead of MBFC, the Company had been a party thereto or bound thereby or entitled to the benefit thereof.

(2) In relation to every contract of employment to which subsection (1) of this section applies, the provisions of the said subsection shall operate to substitute the Company for MBFC, and the employment by MBFC and by the Company shall be deemed for all purposes to be a single continuing employment.

Application of enactments and documents.

6.—(1) Subject to the provisions of this Act, where—

- (a) any enactment other than an enactment in this Act; or
- (b) any document whensoever made or executed;

contains any reference express or implied to MBFC, such reference shall, on and after the appointed day and except where the context otherwise requires, be read, construed and have effect as a reference to the Company.

(2) Notwithstanding anything in subsection (1) of this section, where in pursuance thereof a reference to MBFC in any document constituting or relating to any pension scheme or any provident fund of MBFC in force immediately before the appointed day is to be read, construed and have effect as a reference to the Company, for the purpose of ascertaining and calculating the right to benefits thereunder, service or employment with MBFC prior to the appointed day shall be taken into account as if it were service or employment with the Company but this section shall not of itself give rise to any claim to benefit under any such scheme or fund or operate to cause a member thereof to become a member of another pension scheme or provident fund.

(3) Without prejudice to the generality of subsection (1) of this section, where by any order of the court or by any trust deed, settlement, covenant or agreement or where by any will, codicil or other testamentary writing, whether made or executed before or after the appointed day, MBFC (whether alone or with any other person) was or is granted letters of administration or appointed trustee, executor, guardian or in any other fiduciary capacity, such order, trust deed, settlement, covenant, agreement, will, codicil or other testamentary writing shall not fail by reason of anything in this Act but shall as from the appointed day be read and construed and have effect as if for any reference therein to MBFC there were substituted a reference to the Company.

Supplementary provisions as to business.

7. Without prejudice to the generality of the foregoing provisions of this Act, the following provisions shall have effect with relation to the business of MBFC:—

- (a) Any account between MBFC and a customer at any office or branch of MBFC shall be transferred to the

Company on the appointed day and shall become on and after that day an account between the Company and such customer with the same rights and subject to the same obligations and incidents (including rights of set-off) as would have been applicable thereto if such account between MBFC and the customer had continued and such account shall be deemed for all purposes to be a single continuing account and so that any instruction, order, direction, mandate, power of attorney, authority, undertaking or consent (whether in writing or not) given by such customer in relation to such account and subsisting at or given after the appointed day shall, unless and until revoked or cancelled, apply and have effect in relation to such account after its transfer to the Company as aforesaid:

- (b) Any security in favour of MBFC, an agent for MBFC or a nominee of MBFC for the payment of debts or liabilities (whether present or future, actual or contingent) of any person shall be transferred or deemed to be transferred to the Company on the appointed day and shall be held by and be available to the Company as security for the payment of such debts and liabilities to the Company; and where the security extends to future advances or to future liabilities of such person, the said security shall on and after that day be held by and be available to the Company as security for future advances to the said person by, and future liabilities of the said person to, the Company to the same extent to which future advances by, or liabilities to, MBFC were secured thereby immediately before that day:
- (c) The Company shall in relation to any security transferred or deemed to have been transferred to it in accordance with or by virtue of the provisions of this Act and the moneys thereby secured in accordance with those provisions, be entitled to the same rights and priorities and subject to the same obligations and incidents as MBFC would have been entitled and subject to if the same had continued to be held by MBFC:
- (d) The custody of any document, goods or other property held by MBFC as bailee for any other person at any office or branch of MBFC shall be transferred or deemed to be transferred to the Company on the appointed day and the rights and obligations of MBFC under any contract of bailment relating to such document, goods or property shall be transferred or deemed to be transferred on that day to the Company:
- (e) Any negotiable instrument or order for payment of money, whether drawn, given, accepted or endorsed

before, on or after the appointed day, which is expressed to be drawn on or by, or given to, or accepted or endorsed by, MBFC, or payable at any place of business of MBFC shall have the same effect on and after the appointed day as if it had been drawn on, or by, or given to, or accepted or endorsed by, the Company, or payable at the same place of business of the Company.

Actions, etc.,  
not to abate.

8.—(1) Subject to the provisions of this Act, any action, application, arbitration or proceeding and any cause of action, application, arbitration or proceeding which shall on the appointed day be pending or existing by, against or in favour of MBFC shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of this Act, but the same may only be prosecuted, continued and enforced by, against or in favour of the Company as and when it might have been prosecuted, continued and enforced by, against or in favour of MBFC if this Act had not been passed.

(2) Subject to the provisions of this Act any judgment or award obtained by or against MBFC and not fully satisfied before the appointed day shall only be enforceable by or against the Company.

(3) Nothing in this Act shall terminate or prejudicially affect the appointment of any receiver or of any receiver and manager.

Evidence and  
books and  
documents.

9.—(1) Subject to the provisions of this Act, on and after the appointed day all admissions, books and other documents which would before the appointed day have been admissible in evidence in respect of any matter for or against MBFC shall be admissible in evidence in respect of the same matter for or against the Company.

1968 c. 64.

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

Application of  
Bankers'  
Books  
Evidence  
Act 1879.  
1879 c. 11.

10.—(1) On and after the appointed day the Bankers' Books Evidence Act 1879 shall apply to any books to which that Act was applicable before that day and which are transferred to the Company by virtue of this Act, as if such books were the books of the Company.

(2) For the purposes of section 4 of the said Act of 1879, any such books so transferred to the Company shall be deemed to have been the ordinary books of the Company 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) For the purposes of this section, "books" include ledgers, day books, cash books, account books and all other books and records (including computer tape) used in the ordinary business of MBFC.

11. The production of a Queen's Printer's copy of this Act shall on and after the appointed day be conclusive evidence in all courts and proceedings of the transfer of the undertaking to the Company and of its vesting in the Company; and without prejudice to the generality of the foregoing any such copy of this Act shall, in relation to any registered securities within the meaning of the Stock Transfer Act 1963, which are transferred and vested 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 and vesting of such securities.

Evidence of transfer.

1963 c. 18.

12. For the avoidance of doubt it is hereby declared that the transfer of an interest in land under and by virtue of this Act shall not—

Transfers of interests in land.

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

1954 c. 56.

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

(c) invalidate or discharge any contract or security; or

(d) operate so as to merge any leasehold interest in the reversion which is expectant thereon.

13. Nothing in this Act shall exempt the Company from the provisions of any enactment relating to companies carrying on the business of banking.

No exemption from enactments concerning banking companies.

14.—(1) MBFC shall by virtue of this Act be dissolved on the day (being a day after the appointed day) on which at the request of the Company the registrar or other officer performing under the Companies Act 1948 the duty of registration of companies in England strikes MBFC off the register.

Dissolution of MBFC.

1948 c. 38.

(2) Notwithstanding the provisions of section 354 of the Companies Act 1948 (which relates to the property of a dissolved company), on the day referred to in the preceding subsection all

documents required to be kept by MBFC pursuant to the provisions of the Companies Acts 1948 to 1967 shall by virtue of this Act be transferred to and vest in the Company.

Application  
to Northern  
Ireland.

15.—(1) It is hereby declared that this Act extends to Northern Ireland.

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

- (i) the expression “Act” shall include an Act of the Parliament of Northern Ireland;
  - (ii) in section 9 (2) for the reference to section 10 of the Civil Evidence Act 1968, there shall be substituted a reference to section 6 of the Civil Evidence Act (Northern Ireland) 1971;
  - (iii) in section 11 for the reference to the Stock Transfer Act 1963 there shall be substituted a reference to the Stock Transfer Act (Northern Ireland) 1963; and
  - (iv) in section 12 for the reference to section 30 (2) of the Landlord and Tenant Act 1954 there shall be substituted a reference to section 10 (3) of the Business Tenancies Act (Northern Ireland) 1964.
- 1968 c. 64.
- 1971 c. 36  
(N.I.).
- 1963 c. 18.  
1963 c. 24  
(N.I.).
- 1954 c. 56.
- 1964 c. 36  
(N.I.).

Application  
to Scotland.

16. This Act shall extend to Scotland and in the application thereof to Scotland the following provisions shall have effect:—

(a) In the construction of this Act—

for the reference in section 9 (2) to section 10 of the Civil Evidence Act 1968 there shall be substituted a reference to section 17 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968;

1968 c. 70.

the expression “mortgage” includes a floating charge or any instrument containing a floating charge, 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:

(b) All floating charges, standard securities, cash credit bonds, bonds and dispositions or assignations in security, assignations and dispositions ex facie absolute expressed to be in favour of MBFC transferred to and vested in the Company on the appointed day by virtue of this Act shall, on and after that day, have the same effect in favour of the Company up to the maximum amounts

stated therein respectively in all respects as if they had been originally granted in favour of the Company for such maximum amount:

- (c) To enable the Company to complete a title, if thought fit, to any property transferred and vested 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 assignation (as the case may be) of such property in favour of the Company.

17. All costs, charges and expenses preliminary to and of and Costs of Act. incidental to the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

---

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED  
FOR HAROLD GLOVER

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

22p net

ISBN 0 10 510976 2