



Lloyds TSB Act 1998

1998 CHAPTER v

6 Supplementary provisions as to transfer and vesting

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

- (1) Every contract to which a transferor company is a party shall be construed and have effect on and from the appointed day—
 - (a) as if Lloyds had been a party thereto instead of the transferor company;
 - (b) subject to paragraph (3) below, as if for any reference (however worded and whether express or implied) to the transferor company there were substituted a reference to Lloyds;
 - (c) as if any reference (however worded and whether express or implied) to the directors, officers, representatives or employees or to any director, officer, representative or employee of the transferor company were a reference to the directors, officers, representatives or employees of Lloyds as the case may require, or to such director, officer, representative or employee of Lloyds as Lloyds may nominate for that purpose or, in default of nomination, to the director, officer, representative or employee of Lloyds who corresponds as nearly as may be to the first mentioned director, officer, representative or employee; and
 - (d) where the contract relates to property or liabilities which are for the time being only partly transferred to, and vested in, Lloyds by virtue of this Act, as if the contract, to the extent to which it is enforceable by and against the transferor company, constituted two separate contracts, one of which is enforceable by and against Lloyds as regards the part of the property or, as the case may be, liabilities so transferred to, and vested in, Lloyds and not as regards the other part, and the other of which is enforceable by and against the transferor company as regards the part of the property or, as the case may be, liabilities not so transferred to, and vested in, Lloyds and not as regards the other part:
- (2) Sub-paragraphs (b) and (c) of paragraph (1) above shall, on and from the appointed day, apply to any enactment other than the provisions of this Act and to any provision of any contract to which a transferor company was not a party; and sub-paragraphs

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(a), (b) and (c) of that paragraph shall, on and from the appointed day, apply to any provision of any other document (not being a contract or a will) as they apply to a contract to which paragraph (1) above applies:

- (3) Sub-paragraph (b) of paragraph (1) above shall not apply to the name or title of any rate, charge, tariff, scale of fees, terms or conditions of a transferor company which includes the initials, the name or part of the name of that transferor company, but on or after the appointed day Lloyds may change the name or title:
- (4) An offer or invitation to treat made to or by a transferor company before the appointed day shall be construed and have effect on and after the appointed day as an offer or invitation to treat, as the case may be, made to or by Lloyds:
- (5) Any account between a transferor company and a customer shall, on and from the appointed day, become an account between Lloyds 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 Lloyds or of the customer to vary the conditions or incidents subject to which any account is kept:

- (6) For the purpose of construing and giving effect to any contract which—
 - (a) has effect or continues to have effect on, or on and after, the appointed day; and
 - (b) makes reference to a rate, charge, tariff or scale of fees or to terms or conditions published, determined or ascertained from time to time by TSB or Hill Samuel,

Lloyds shall have the same right under that contract as TSB or Hill Samuel had to publish, determine, ascertain, vary or amend rates, charges, tariffs, scales of fees, terms or conditions, and any such rates, charges, tariffs, scales of fees, terms or conditions published, determined, ascertained, varied or amended by Lloyds shall apply in place of those which could have been published, determined, ascertained, varied or amended by TSB or Hill Samuel:

- (7) Any existing instruction, order, direction, mandate, power of attorney, authority, undertaking or consent given to or by a transferor company (whether in writing or not) shall have effect, on and from the appointed day, as if given to or, as the case may be, by Lloyds:
- (8) Any negotiable instrument, cheque, warrant, draft, letter of credit or order for payment of money drawn on or by, or given to, or accepted or endorsed by, a transferor company, or payable at any place of business of a transferor company, whether so drawn, given, accepted, endorsed or payable 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 by, or given to, or accepted or endorsed by, Lloyds or were payable at the same place of business of Lloyds:
- (9) Any document, claim or demand addressed on or after the appointed day to a transferor company pursuant to an existing contract shall be deemed to have been addressed to Lloyds:
- (10) The custody of any document, goods or other thing held by a transferor company as bailee shall pass to Lloyds on the appointed day, and the rights and obligations of that transferor company under any contract of bailment relating to any such document, goods or thing shall on that day become rights and obligations of Lloyds:

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- (11) (a) Any security interest held immediately before the appointed day by or on behalf of a transferor company as security for the payment or discharge of any liability shall, on and from the appointed day, be held by or on behalf of Lloyds and be available to Lloyds (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 interest transferred to, and vested in, Lloyds by or under this Act and any liabilities thereby secured, Lloyds shall be entitled to the same rights and priorities and be subject to the same obligations and incidents to which the transferor company in question would have been entitled or subject if it had continued to hold the security interest;
- (c) Without prejudice to the generality of sub-paragraph (b) above, in any case where any existing liability subsists between a transferor company and Lloyds in respect of which the transferor company or Lloyds, or a nominee or agent of or trustee for the transferor company or Lloyds, holds a security interest, that liability shall, for the purpose of enforcing or realising that security interest, be deemed to continue in effect notwithstanding the transfer to, and vesting in, Lloyds of the undertaking or any part thereof;
- (d) Any security interest 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 Lloyds (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 it extends immediately before that day to future advances or liabilities:
- (12) Where by virtue of this Act any property or liability of a transferor company becomes property or a liability of Lloyds, Lloyds 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 property or liability as if it had at all times been property or a liability of Lloyds:
- (13) Any right of action and any remedy available in consequence thereof which accrues, arises or becomes enforceable or available before the appointed day by or against a transferor company, or which would, but for this Act, accrue, arise or become enforceable or available by or against a transferor company on or after the appointed day, may be enforced or availed of by or against Lloyds on or after the appointed day and any legal proceedings, applications to any authority or other proceedings for the resolution of a dispute pending or current immediately before the appointed day by or against the transferor company may be continued by or against Lloyds:
- (14) Any judgment, order or award obtained by or against a transferor company and not fully satisfied before the appointed day shall on that day, to the extent to which it is enforceable by or against the transferor company, become enforceable by or against Lloyds:
- (15) The Data Protection Registrar may, on and from the appointed day, serve on Lloyds any notice under section 10 of the Data Protection Act 1984 which he could have served on a transferor company in respect of a breach by the transferor company of the data protection principles; but the transfer to, and vesting in, Lloyds by this Act of the undertakings (and any disclosure to Lloyds of any information in contemplation or as a result thereof) shall not amount to a breach of any duty of confidentiality to which

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the transferor companies are subject at the date of such disclosure or to a contravention by Lloyds or a transferor company of the data protection principles.