

**BARCLAYS PRIVATE CLIENTS INTERNATIONAL
ACT 2002**

Chapter 1

Arrangement of sections

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Signed in Tynwald: 9th July 2002
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Announced to Tynwald: 10th July 2002
Passed: 10th July 2002

AN ACT

to carry into effect the transfer to, and vesting in, Barclays Finance Company (Isle of Man) Limited of the undertaking or part or parts of the undertaking of the Isle of Man branch of Barclays Bank PLC; to provide for the acceptance by Barclays Finance Company (Isle of Man) Limited of the transfer to, and vesting in, it of the undertakings or part or parts of the undertakings of the Jersey and Guernsey branches of Barclays Bank PLC and the undertakings or part or parts of the undertakings of each of Barclays Bank Finance Company (Jersey) Limited, Barclays Finance Company (Guernsey) Limited and Woolwich Guernsey Limited; and for connected purposes.

WHEREAS:

(1) Barclays Bank PLC (hereinafter referred to as "the Transferor Company") is a public limited company that was registered under the Companies Acts 1948 to 1967 (Acts of Parliament) which carries on, inter alia, the businesses of banking and financial services through a branch in the Island, where it is licensed to do so under the Banking Act 1998¹, in Jersey, where it is registered under the Banking Business (Jersey) Law 1991, and in Guernsey, where it is licensed under the Banking Supervision (Bailiwick of Guernsey) Law 1994.

(2) Barclays Finance Company (Isle of Man) Limited (hereinafter referred to as "the Company") is a limited liability company incorporated in the Island under the Companies Acts 1931 to 1993 which is a subsidiary of the

¹ 1998 c.4

Transferor Company carrying on, inter alia, banking business in the Island, being licensed to do so under the Banking Act 1998.

(3) Barclays Bank Finance Company (Jersey) Limited (hereinafter referred to as "the Jersey Company") is a limited liability company incorporated in Jersey under the Loi (1861) sur les Sociétés à Responsabilité Limitée which is a subsidiary of the Transferor Company carrying on, inter alia, deposit-taking business in Jersey, being registered under the Banking Business (Jersey) Law 1991.

(4) Barclays Finance Company (Guernsey) Limited and Woolwich Guernsey Limited (hereinafter collectively referred to as "the Guernsey Companies") are both limited liability companies incorporated in Guernsey under the Loi Relative aux Sociétés Anonymes ou à Responsabilité Limitée (1908) which are subsidiaries of the Transferor Company carrying on, inter alia, banking business in Guernsey, being licensed to do so under the Banking Supervision (Bailiwick of Guernsey) Law 1994.

(5) For the better conduct of the businesses of the Transferor Company, the Company, the Jersey Company and the Guernsey Companies it is expedient to make provision for the transfer to, and vesting in, the Company of the undertakings or part or parts of the undertakings of the Isle of Man, Jersey and Guernsey branches of the Transferor Company and the undertakings or part or parts of the undertakings of the Jersey Company and the Guernsey Companies.

(6) It is expedient that the transfer of the undertaking of the Isle of Man branch of the Transferor Company to the Company should be effected as provided in this Act.

(7) It is intended that enactments in Jersey and Guernsey will transfer the undertakings or part or parts of the undertakings of the Jersey and Guernsey branches of the Transferor Company and the undertakings or part or parts of the undertakings of the Jersey Company and the Guernsey Companies to the Company; it is expedient that the acceptance of these undertakings by the Company should be provided for in this Act.

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

(9) The object of this Act cannot satisfactorily be attained without the authority of an Act of Tynwald.

WE, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech 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 Council and Keys in Tynwald assembled, and by the authority of the same, as follows (that is to say):—

1. Short title

This Act may be cited as the Barclays Private Clients International Act 2002.

2. Interpretation

(1) In this Act —

"account" includes any contract or facility between a person and the Transferor Company by virtue of which money or any unit of account is, or may be, deposited or borrowed by any person;

"appointed day" means a day appointed under section 3 as an appointed day for the purposes of this Act (and different days may be appointed for the purposes of different Isle of Man undertakings);

"appointed undertaking" means an Isle of Man undertaking appointed under section 3;

"Channel Islands enactment" means any statutory provision of Jersey or Guernsey whereby any Channel Islands undertaking is transferred to the Company;

"Channel Islands undertaking" means the whole of the business, property and liabilities of whatever nature of each of the Jersey and Guernsey branches of the Transferor Company and of the Jersey Company and each of the Guernsey Companies, or any part or parts of any such business, property and liabilities (whether or not capable of being operated or identified as a discrete business);

"Company" means Barclays Finance Company (Isle of Man) Limited, a company incorporated in the Island;

"contract" includes any agreement, transaction, arrangement or understanding, whether or not conditional or in writing and whether or not governed by the law of the Island;

"convey" has the same meaning as in the Conveyancing Act 1908²;

"customer" includes any person having an account or any other dealing or contract with the Transferor Company;

"document" means any thing in which information of any description is recorded;

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

"Guernsey Companies" means Barclays Finance Company (Guernsey) Limited and Woolwich Guernsey Limited, both companies incorporated in Guernsey;

"holding company" has the meaning set out in section 1 of the Companies Act 1974³;

² VIII p.241

"Isle of Man undertaking" means the whole of the business, property and liabilities of whatever nature of the Isle of Man branch of the Transferor Company or any part or parts of such business, property and liabilities (whether or not capable of being operated or identified as a discrete business);

"Jersey Company" means Barclays Bank Finance Company (Jersey) Limited, a company incorporated in Jersey;

"liability" includes a duty and an obligation of any description (whether present or future, actual, contingent or prospective);

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

"retirement benefits scheme" means any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect so as to provide any pension, lump sum, gratuity or such other benefit as may be prescribed, given or to be given on retirement or death, or in anticipation of retirement, or, in connection with past service, after retirement or death;

"security interest" includes a mortgage or charge (whether legal or equitable), deed of bond and security, debenture, bill of exchange, promissory note, guarantee, lien, pledge (whether actual or constructive), hypothecation, assignment by way of security, indemnity, right of set-off, flawed asset arrangement, undertaking or other means of securing the payment or discharge of a debt or liability or any interest thereon (whether present or future, actual, contingent or prospective);

"subsidiary" has the meaning set out in section 1 of the Companies Act 1974;

"Transferor Company" means Barclays Bank PLC, a company incorporated in England and Wales;

"trustee" includes a trustee or custodian trustee of any trust, settlement, covenant, contract or will (whether originally so appointed or not and whether appointed under hand or seal or by order of any court); an executor of the will, or administrator of the estate, of a deceased person; a judicial trustee appointed by order of any court; an attorney for another person; and any person acting in a fiduciary capacity; and

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

(2) Any reference in this Act to property or liabilities of the Transferor Company is a reference to property or liabilities to which the Transferor Company is entitled or subject (whether beneficially or in any fiduciary capacity) wherever they are situated or arise, whether or not they are capable of being transferred or assigned by the Transferor Company and

³ 1974 c.30

whether the Transferor Company is entitled or subject to them under the law of the Island or under the law of any country or territory outside the Island.

3. Appointed days

(1) The directors of the Transferor Company (or any committee or sub-committee appointed or nominated by them for the purpose) may, as respects an Isle of Man undertaking, appoint —

- (a) such Isle of Man undertaking to be an appointed undertaking,
- (b) a day, being a day not later than the expiry of the period of five years beginning with the date this Act is passed, to be the appointed day for the transfer of the appointed undertaking from the Transferor Company to the Company.

(2) The power of appointment referred to in subsection (1) may be exercised on more than one occasion, each such exercise relating to different business, property and liabilities forming part of the Isle of Man undertaking.

(3) The Transferor Company and the Company shall, not less than fourteen days before a proposed appointed day, display at the branch of the Transferor Company in the Island and at the registered office of the Company a notice naming that day —

- (a) stating that it is proposed to be an appointed day for the purposes of this Act,
- (b) describing concisely the appointed undertaking in respect of which it is proposed to be the appointed day, and
- (c) naming the Transferor Company as the transferor and the Company as transferee.

(4) The Transferor Company or the Company may publicise the effect of the appointment of the appointed day in any other manner as the Transferor Company or the Company (as the case may be) in its discretion sees fit.

(5) On or not more than seven days before an appointed day, the Transferor Company or the Company shall publish in a newspaper published in, and circulating throughout, the Island a notice naming that day —

- (a) stating that it is an appointed day for the purposes of this Act,
- (b) describing concisely the appointed undertaking in respect of which it is the appointed day, and
- (c) naming the Transferor Company as the transferor and the Company as transferee.

(6) The publication of a notice in accordance with subsection (5) shall be conclusive evidence of a day being an appointed day for the purposes of this Act.

(7) A photocopy or other reproduction, certified by an authorised officer of the Transferor Company or the Company, of a page or part of a page

of the newspaper containing the notice under subsection (5) shall be conclusive evidence of publication of the notice.

(8) A notice displayed under subsection (3) or any publicity under subsection (4) shall not bind the directors of the Transferor Company (or any committee or sub-committee appointed or nominated by them for the purposes of subsection (1)) to make the appointment described in the notice.

(9) Any appointment made under subsection (1), notice of which has been published under subsection (5), will not be invalidated by any accidental omission to display a notice under subsection (3).

(10) A copy of a minute or an extract of a minute of any meeting of the directors of the Transferor Company (or any committee or sub-committee appointed or nominated by them for the purposes of subsection (1)) evidencing any appointment pursuant to subsection (1) shall be filed in the Rolls Office by the Transferor Company in accordance with section 2(1) of The Filing of Statutory Documents Act 1937⁴ within a reasonable time after the relevant appointed day.

4. Provisions as to trust property and wills

(1) On the appointed day the appointed undertaking in respect of which that day is appointed shall, by virtue of this Act and without further assurance, be transferred to, and vested in, the Company to the intent that the Company shall succeed to the appointed undertaking as if in all respects the Company were the same person in law as the Transferor Company.

(2) Where the transfer or vesting of any property or liability comprised in the appointed undertaking referred to in subsection (1) is governed by the law of any country or territory outside the Island —

- (a) the Transferor Company shall, if the Company so requires, take all necessary steps for securing that the transfer to and vesting in the Company of the property or liability is fully effective under the law of that country or territory, and
- (b) pending such transfer, the Transferor Company shall hold any such property in trust for the Company.

5. Vesting of appointed undertakings in the Company

(1) Any property transferred to, and vested in, the Company by virtue of this Act which immediately before the relevant appointed day was held by the Transferor Company, whether alone or jointly with any other person, as trustee shall, on and from that appointed day, be held by the Company 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) Subject to subsection (4) —

⁴ XIV p.476

- (a) any existing instrument or order of any court under or by virtue of which any property comprised in the appointed undertaking became or may become vested in the Transferor Company as trustee, and
- (b) any provision therein, or any existing contract for the payment to, or retention by the Transferor Company of remuneration for its services in any such capacity,

shall, on and from the relevant appointed day, be construed and have effect, so far as the context permits, as if for any reference therein to the Transferor Company, other than a reference (however worded and whether express or implied) to terms and conditions of, or to a rate, charge, tariff or scale of fees of, the Transferor Company, there were substituted a reference to the Company.

- (3) Subject to subsection (4) —
 - (a) any will comprised in the appointed undertaking made before the appointed day which has not been proved in the Island before the appointed day, and
 - (b) any will made on or after the appointed day, being a will which appoints the Transferor Company (acting through its Isle of Man branch) to be a trustee or recipient of any property as trustee,

shall be construed and have effect as if for any reference therein to the Transferor Company as such trustee or recipient or otherwise in connection with such appointment, other than a reference (however worded and whether express or implied) to terms and conditions of, or to a rate, charge, tariff or scale of fees of, the Transferor Company, there were substituted a reference to the Company.

(4) Any right contained in any instrument, order or contract referred to in subsection (2) or any will referred to in subsection (3) to alter the relevant terms and conditions or the rate, charge, tariff or scale of fees of the Transferor Company, which was exercisable by the Transferor Company, shall, on or after the relevant appointed day, be exercisable by the Company.

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

6. Supplementary provisions as to transfer and vesting

(1) 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 of this section shall have effect in relation to an appointed undertaking.

(2) Every existing contract relating to an appointed undertaking to which the Transferor Company is a party shall be construed and have effect on and from the appointed day —

- (a) as if the Company had been a party thereto instead of the Transferor Company,
- (b) subject to subsection (5), as if for any reference (however worded and whether express or implied) to the Transferor Company there were substituted a reference to the Company,
- (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 (as the case may require) —
 - (i) to the directors, officers, representatives or employees of the Company, or
 - (ii) to such director, officer, representative or employee of the Company as the Company may nominate for that purpose, or
 - (iii) in default of nomination, to the director, officer, representative or employee of the Company 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, the Company 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 —
 - (i) one of which is enforceable by and against the Company as regards the part of the property, or as the case may be, liabilities so transferred to, and vested in, the Company and not as regards the other part, and
 - (ii) 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, the Company and not as regards the other part.

(3) Paragraphs (b) and (c) of subsection (2) shall, on and from the relevant appointed day, apply to any enactment other than the provisions of this Act and to any provision of any existing contract relating to an appointed undertaking to which the Transferor Company was not a party as they apply to a contract to which subsection (2) applies.

(4) Paragraphs (a), (b) and (c) of subsection (2) shall, on and from the relevant 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 subsection (2) applies.

(5) Paragraph (b) of subsection (2) shall not apply to the name or title of any rate, charge, tariff, scale of fees, terms or conditions of the Transferor Company which includes the initials, the name or part of the name

of the Transferor Company but, on or after the appointed day, the Company may change the name or title.

(6) An offer or invitation to treat made to or by the Transferor Company relating to an appointed undertaking before the relevant appointed day shall be construed and have effect on and after the relevant appointed day as an offer or invitation to treat, as the case may be, made to or by the Company.

(7) Subject to subsection (8), any account between the Transferor Company and a customer that is comprised within an appointed undertaking shall, on and from the relevant appointed day, become an account between the Company 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.

(8) Subsection (7) shall not affect any right of the Transferor Company or the Company or of the customer to vary the conditions or incidents subject to which any account is kept.

(9) For the purpose of construing and giving effect to any contract relating to an appointed undertaking which —

- (a) has effect or continues to have effect on, or on and after, the relevant 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 the Transferor Company,

the Company shall have the same rights under that contract as the Transferor Company 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 the Company shall apply in place of those which could have been published, determined, ascertained, varied or amended by the Transferor Company.

(10) Any existing instruction, order, direction, mandate, power of attorney, authority, undertaking or consent given to or by the Transferor Company relating to an appointed undertaking (whether in writing or not and whether or not in relation to an account) shall have effect, on and from the relevant appointed day, as if given to or, as the case may be, by the Company.

(11) Any negotiable instrument, cheque, warrant, draft, letter of credit or order for payment of money in relation to an appointed undertaking drawn on or by, or given to, or accepted or endorsed by, the Transferor Company (acting through its Isle of Man branch), or payable at any place of business of the Transferor Company in the Island, whether so drawn, given, accepted, endorsed or payable before, on or after the relevant appointed day, shall have the same effect, on and from that appointed day —

- (a) as if it had been drawn on or by, or given to, or accepted or endorsed by, the Company, and

- (b) if relevant, as if the place of business at which it is payable were a place of business of the Company.

(12) Any document, claim or demand relating to an appointed undertaking and addressed before, or on, or after the relevant appointed day to the Transferor Company pursuant to an existing contract shall be deemed to have been addressed to the Company.

(13) The custody of any document or record, goods or other thing held by the Transferor Company (acting through its Isle of Man branch) as bailee shall (where such custody arrangement is part of an appointed undertaking) pass to the Company on the relevant appointed day, and the rights and obligations of the Transferor Company 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 Company.

(14) Any security interest held immediately before the appointed day in relation to an appointed undertaking by the Transferor Company, or by a nominee or agent of or trustee for the Transferor Company, as security for the payment or discharge of any liability shall, on and from the relevant appointed day —

- (a) be held by the Company or, as the case may require, by that nominee, agent or trustee for the Company, and
- (b) be available to the Company (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.

(15) In relation to any security interest transferred to, and vested in, the Company by or under this Act and any liabilities thereby secured, the Company shall be entitled to the same rights and priorities and be subject to the same obligations and incidents to which the Transferor Company would have been entitled and subject if it had continued to hold the security interest.

(16) Without prejudice to the generality of subsection (15) in any case where any existing liability subsists between the Transferor Company and the Company in respect of which the Transferor Company or the Company, or a nominee or agent of or trustee for the Transferor Company or the Company, holds a security interest, all such 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, the Company of the appointed undertaking.

(17) Any security interest referred to in subsections (14) to (16) which extends to future advances or liabilities shall, on and from the relevant appointed day, be available to the Company (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.

(18) Where by virtue of this Act any property or liability of the Transferor Company becomes property or a liability of the Company, the Company and all other persons shall, on and from the relevant 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 the Company.

(19) Any right of action and any remedy available in consequence thereof—

- (a) which accrues, arises or becomes enforceable or available before the relevant appointed day by or against the Transferor Company and which relates to an appointed undertaking, or
- (b) which would, in the absence of a transfer pursuant to this Act and subject to the provisions relating thereto in this Act, accrue, arise or become enforceable or available by or against the Transferor Company on or after that appointed day and which relates to an appointed undertaking,

may, subject to the provisions relating to the appointed undertaking in this Act, be enforced or availed of by or against the Company on or after that appointed day.

(20) Any legal proceedings, applications to any authority or other proceedings for the resolution of a dispute pending or current immediately before the relevant appointed day by or against the Transferor Company and which relate to an appointed undertaking may be continued by or against the Company.

(21) Any judgment, order or award obtained by or against the Transferor Company which relates to an appointed undertaking and which is not fully satisfied before the relevant 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 the Company.

(22) On the relevant appointed day the Company—

- (a) shall succeed to all the rights, liabilities and obligations of the Transferor Company in respect of data which is comprised in the appointed undertaking and which is subject to the Data Protection Act 1986⁵,
- (b) shall become the data user of any data which is comprised in the appointed undertaking and which is subject to the Data Protection Act 1986 in place of the Transferor Company, and shall be deemed to have been the data user of all such data at all material times when data was processed, and
- (c) shall, in relation to an appointed undertaking, be under the same duty by virtue of any law as the Transferor Company was under with respect to the confidentiality and privacy of any person and shall be bound by any specific notice given or request made by the data subject which was binding on the Transferor Company and which required the Transferor Company not to use data for marketing purposes.

⁵ 1986 c.31

(23) In any consent given by a data subject in respect of such data as is mentioned in paragraph (a) of subsection (22), any reference to the Transferor Company (or to any subsidiary or holding company of the Transferor Company or any subsidiary of such holding company) shall be deemed to include a reference to the Company and any subsidiary or holding company of the Company and any subsidiary of such a holding company.

7. Contracts of employment etc.

(1) Subject to subsection (1) of section 8, every contract of employment relating to an appointed undertaking to which the Transferor Company is a party, and of which either the proper law is the law of the Island or performance takes place wholly or mainly in the Island, shall be construed and have effect on and from the relevant appointed day as if the Company had been a party thereto instead of the Transferor Company and as if for any reference (however worded and whether express or implied) to the Transferor Company there were substituted a reference to the Company and employment with the Transferor Company and the Company under any such contract shall be deemed for all purposes to be a single continuing employment.

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

8. Retirement benefits scheme, etc.

(1) In so far as any benefits provided immediately before the relevant appointed day pursuant to contracts of employment referred to in subsection (1) of section 7 will, by reason of the operation of the laws of any part of the United Kingdom and the laws of the Island, cease to be available (whether immediately on the appointed day or at some date thereafter) as a result of a transfer effected by subsection (1) of section 7, the Company shall take such steps as are necessary in order to provide to such affected employees benefits of equivalent value to those benefits provided immediately before the relevant appointed day.

(2) In this section, references to "benefits" include membership of any retirement benefits scheme.

9. Evidence of transfer and vesting

(1) A copy of this Act printed by authority or a photocopy thereof, and such evidence of publication of a notice of an appointed day in relation to an appointed undertaking as is specified in subsection (7) of section 3, shall, for all purposes, be conclusive evidence of the transfer to, and vesting in, the Company of the appointed undertaking in accordance with the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) any such copy of this Act, together with such evidence of publication of a relevant

notice, shall, in relation to any registered securities within the meaning of the Stock Transfer Act 1965⁶ transferred to, and vested in, the Company by virtue of this Act, operate for all the purposes of the said Act of 1965 as a duly executed stock transfer in respect of the transfer of such securities from the Transferor Company to the Company.

- (3) Without prejudice to the generality of subsection (1) —
 - (a) any document made or executed on or after the appointed day whereby the Company or the Transferor 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 forming part of the appointed undertaking held by the Transferor Company immediately before the relevant appointed day, whether alone or jointly with any other person, shall —
 - (i) in the case of such a document referring to the property as property held by the Company, be sufficient evidence that the interest of the Transferor Company in that property has been transferred to and vested in the Company, alone or jointly, under this Act, and
 - (ii) in the case of such a document referring to the property as property held by the Transferor Company, be sufficient evidence that the interest of the Transferor Company in that property has not been transferred to or vested in the Company under this Act, and
 - (b) where there is any other transaction which relates to an appointed undertaking by the Company or the Transferor Company on or after the relevant appointed day in connection with, or in relation to, any property or liability which is property or a liability of the Transferor Company immediately before that appointed day, it shall be deemed in favour of any other party to the transaction, or any person claiming through or under him, that the Company or, as the case may be, the Transferor Company has full power and authority for that transaction as if —
 - (i) in the case of a transaction by the Company, the property or liability had been transferred to and vested in the Company under this Act, and
 - (ii) in the case of a transaction by the Transferor Company, the property or liability had not been so transferred or vested in the Company under this Act.
- (4) A certificate given by or on behalf of the Company whether given before, on or after the relevant appointed day, that any property or liability of the Transferor Company specified in the certificate will or will not transfer and vest, or has or has not transferred and vested, as the case may be,

⁶ XIX p.1505

to and in the Company under this Act shall be conclusive evidence for all purposes of the fact so certified.

(5) Nothing in this section affects the liability of the Transferor Company or the Company to the other of them in respect of anything done, or purported to have been done, by either of them in connection with, or in relation to, any property or liabilities.

10. Evidence: documents

All documents which would before the relevant appointed day have been evidence in respect of any matter for or against the Transferor Company in relation to the appointed undertaking shall be admissible in evidence in respect of the same matter for or against the Company.

11. Application of Bankers' Books Evidence Act 1935

(1) The Bankers' Books Evidence Act 1935⁷ shall apply to the books of the Transferor Company transferred to, and vested in, the Company by virtue of this Act, and to entries made in those books before the relevant appointed day, as if such books were books of the Company.

(2) For the purposes of section 4 of the said Act of 1935, books so transferred to, and vested in, 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 relevant 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 the words "Bankers Books" in the said Act of 1935.

12. Savings in respect of transfer and vesting of property

(1) The transfer and vesting of any property or of a liability by virtue of this Act shall not —

- (a) constitute an assignment, transfer, devolution, alienation, parting with possession or other disposition of or dealing with property or an interest in property for the purposes of any enactment other than this Act or any provision in any deed or other instrument, or any contract or any order of any court concerning that property or that interest, or
- (b) give rise to any forfeiture, or
- (c) invalidate or discharge any contract, security interest or other thing, or

⁷ XIV p.300

- (d) require further registration in respect of any security interest, or
- (e) cause or enable the benefit of any contract, permission, licence or privilege or right of pre-emption enjoyed by the Transferor Company or the Company to be, or to be liable to be, lost or surrendered or otherwise affected, or require the disposal by the Transferor Company or the Company of any interest, otherwise than as provided for in this Act, or
- (f) relieve any person under an obligation to the Transferor Company of a corresponding obligation to the Company, or
- (g) constitute a breach of, or default under, or require any obligation to be performed sooner or later than would have otherwise been the case under, any contract or instrument to which the Transferor Company or the Company is a party or is bound, or
- (h) allow any party to a contract to terminate that contract when he would not otherwise have been able to terminate it, or
- (i) operate so as to merge any leasehold interest in the reversion expectant on it, or
- (j) entitle any party to any contract to which the Transferor Company or the Company is a party to vary the terms of that contract when he would not otherwise have been able to vary those terms or confer a right or benefit on him which he would not otherwise have had, or
- (k) cause the imposition of any greater or lesser obligations on any party to any contract to which the Transferor Company or the Company is a party when that greater or lesser obligation would not otherwise have been imposed.

(2) Paragraphs (b) to (k) of subsection (1) shall apply to any subsidiaries of the Transferor Company and any subsidiaries of the Company as they apply to the Transferor Company and the Company respectively.

13. Saving for enactments regulating banking etc. business

Nothing in the foregoing provisions of this Act shall exempt the Transferor Company or the Company or any subsidiaries of either of them from any statutory provision regulating the carrying on of the business of any of them.

14. Vesting of Channel Islands undertakings

On each day appointed for the purpose by, or pursuant to, the relevant Channel Islands enactment, the Channel Islands undertaking in respect of which such day is appointed shall be transferred to, and vest in, the Company on, and subject to, the provisions of the relevant Channel Islands enactment. Different business, property and liabilities forming part of the Channel Islands

undertaking which are appointed on different days shall transfer to, and vest in, the Company on each relevant day appointed for that purpose.

15. Costs of Act

All 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 the Transferor Company.