



Co-operative Bank Act 1971

CHAPTER xxii

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ELIZABETH II



1971 CHAPTER xxii

An Act to provide for the transfer to Co-operative Bank Limited of the banking business of Co-operative Wholesale Society Limited; and for other purposes incidental thereto and consequential thereon.

[12th May 1971]

WHEREAS—

(1) Co-operative Wholesale Society Limited (hereafter referred to as “CWS”) is a society registered under the Industrial and Provident Societies Acts 1965 to 1968 and has for many years carried on amongst other businesses the business of banking:

(2) The banking business of CWS is conducted by a separate department of CWS and separate accounts of the banking business of CWS have for many years been published in the annual reports and accounts of CWS:

(3) Co-operative Bank Limited (hereafter referred to as “the Bank”) is a company within the meaning of the Companies

Acts 1948 to 1967, is a company limited by shares and is a wholly-owned subsidiary of CWS, and was incorporated with a view to the acquisition of the banking business of CWS:

(4) It is expedient in the interest of efficient and effective banking that the banking business of CWS should be transferred to the Bank:

(5) It is further expedient that the said transfer should be effected economically and without interference with the conduct and continuity of the business of banking:

(6) It is further expedient that the said banking business should be transferred 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 Co-operative Bank Act 1971.
- Interpretation.** 2. 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 Bank ” means Co-operative Bank Limited;
 - “ CWS ” means Co-operative Wholesale Society Limited;
 - “ the CWS banking undertaking ” means the banking business of CWS together with all of the property vested in or belonging to or held by CWS in connection with or for the purposes of that business, including the interests of CWS in the share capitals of Agricultural Finance Federation Limited, Co-operative Commercial Bank Limited and F.C. Finance Limited, and all of the liabilities of CWS incurred in connection with or for the purposes of that banking business;
 - “ customer ” includes any person having a banking account or other dealing, transaction or arrangement in the course of business with CWS in its capacity as a banker;
 - “ 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;

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

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

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

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

(2) The power conferred by the last subsection shall be exercisable by statutory instrument.

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

(2) As consideration for the said transfer the Bank shall on or forthwith after the appointed day allot to CWS or its nominees 4,000,000 ordinary shares of one pound each in the capital of the Bank, credited as fully paid.

(3) The production of a Queen’s Printer’s copy of this Act shall be conclusive evidence in all courts and proceedings of the transfer and vesting in accordance with this Act of the CWS banking undertaking; and 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 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; 1963 c. 18.

(b) any document made or executed on or after the appointed day whereby the Bank, 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 held by CWS, whether alone or jointly with any other person, immediately before the

appointed day shall be sufficient evidence that the interest of CWS in such property became vested in the Bank by virtue of this Act.

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

(a) constitute an assignment, transfer, devolution, parting with possession or other disposition of an 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;

(b) give rise to any forfeiture;

(c) invalidate or discharge any contract or security;

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

1954 c. 56.

1925 c. 20.

(5) In this section “convey” has the same meaning as in the Law of Property Act 1925.

Saving of contracts, etc.

5.—(1) Subject to the provisions of this section, 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 CWS in connection with or for the purposes of the CWS banking business (whether alone or with any other person and whether as principal or agent) in force on the appointed day shall on and from that day be binding and of full force and effect in every respect against or in favour of the Bank as fully and effectually as if, instead of CWS, the Bank 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 so as immediately before the appointed day to substitute the Bank for CWS and the employment by CWS and the Bank shall be deemed for all purposes to be single continuing employment.

(3) Every mandate or other instruction in force on the appointed day for the payment of any interest, dividends or other periodical sums to or by CWS in connection with the CWS banking business shall as from that day have effect, unless and until revoked as a mandate or instruction, for the like payment to or by the Bank.

Banking business.

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

(a) Any banking account between CWS and a customer at any office or branch of CWS at which banking business

is conducted shall be transferred to the Bank on the appointed day and shall become on and from that day an account between the Bank 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 CWS 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 or undertaking given by such customer in relation to such account and subsisting on 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 Bank;

- (b) Any security in favour of CWS, an agent of CWS or a nominee of CWS, and given in connection with or for the purposes of the CWS banking business as security for the payment, satisfaction or discharge of debts or liabilities (whether present or future, actual or contingent) of any person shall be transferred or deemed to be transferred to the Bank on the appointed day and shall be held by and be available to the Bank as security for the payment, satisfaction and discharge to the Bank of such debts and liabilities; and where the security extends to future advances or to future liabilities of such person, the said security shall on and from that day be held by and be available to the Bank as security for future advances to the said person by, and future liabilities of the said person to, the Bank to the same extent to which future advances by, or liabilities to, CWS were secured thereby immediately before that day;
- (c) The Bank 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 CWS would have been entitled and subject to if CWS had continued to hold the same;
- (d) Any negotiable instrument or order for payment of money, whether drawn, given, accepted or indorsed before, on or after the appointed day, which is expressed to be drawn on or given to, or accepted or indorsed by, CWS, or payable at any office or branch of CWS at which banking business is conducted, shall on and from the appointed day have the same effect as if it

had been drawn on, or given to, or accepted or indorsed by, the Bank, or payable at the same branch or office of the Bank;

- (e) The custody of any document, goods or other property held by CWS in connection with or for the purposes of the CWS banking business as bailee for any other person at any office or branch of CWS at which banking business is conducted shall be transferred or deemed to be transferred to the Bank on the appointed day, and the rights and obligations of CWS under any contract of bailment relating to such documents, goods or property shall be transferred or deemed to be transferred on that day to the Bank.

Transfers governed otherwise than by the law of a part of the United Kingdom.

7. If any portion of the CWS banking 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 so soon as is possible after the appointed day CWS shall take all necessary steps for the purpose of securing that the portion is vested in the Bank and pending such vesting shall hold the same in trust for the Bank.

Actions, etc. not to abate.

8.—(1) Any action, application, arbitration or proceedings, and any cause of action, application, arbitration or proceedings which shall on the appointed day be pending or existing by, against or in favour of CWS in connection with or for the purposes of the CWS banking business 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 Bank as and when it might have been prosecuted, continued and enforced by, against or in favour of CWS if this Act had not been passed.

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

Documents, etc., to remain evidence.

9.—(1) All documents, records and admissions relating to the CWS banking business which, if this Act had not been passed would have been evidence in respect of any matter for or against CWS, shall, on and from the appointed day, be admitted in evidence in respect of the same matter for or against the Bank.

1968 c. 64.

(2) In this section "document" 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) Notwithstanding the transfer of the CWS banking business to the Bank under and in the terms of this Act, the provisions of the Bankers' Books Evidence Act 1879 shall continue

to apply with respect to the books of CWS which are transferred to the Bank by virtue of this Act and to entries made in such books before the appointed day.

(2) In this section, "books" has the same meaning as in the Bankers' Books Evidence Act 1879.

1879 c. 11.

11.—(1) Subject to the provisions of this section, where—

(a) any enactment other than an enactment in this Act; or

(b) any document whensoever made or executed;

Application of enactments and documents.

contains any reference, express or implied, to CWS in connection with the CWS banking business, 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 Bank.

(2) (a) 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, agreement, will or appointment, whether made or executed before, on or after the appointed day, CWS (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 or appointment shall not fail by reason of anything in this Act but shall on and from the appointed day be read, construed and have effect as if for any reference therein to CWS there was substituted a reference to the Bank.

(b) Where any order, trust deed, settlement, covenant, agreement, will or appointment such as is mentioned in the preceding paragraph which authorised or authorises CWS or (in the case of any such order or other instrument taking effect after the appointed day) would have authorised CWS (if CWS had accepted such appointment) to charge remuneration or otherwise to act in accordance with some specified scale or some specified terms or conditions applicable to CWS at any particular date before, on or after the appointed day or for the time being, then on and from the appointed day every reference in such order or other instrument to such scale or terms or conditions shall be read, construed and have effect as if the same was a reference to the corresponding scale or terms or conditions applicable to the Bank at such particular date or for the time being (as the case may be):

Provided that where any such reference is to some specified scale or some specified terms or conditions applicable to CWS at some date before the appointed day, then the foregoing provisions of this paragraph shall have effect as if such scale or

terms or conditions had been applicable to the Bank at such prior date (notwithstanding that the Bank may not have been in existence at that date) and as if every reference in such scale or terms or conditions to CWS had been a reference to the Bank.

(3) Nothing in this Act shall exempt the Bank from the provisions of any enactment relating to companies carrying on the business of banking.

Application to
Northern
Ireland.

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

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

1920 c. 67.

(a) the provisions thereof shall be treated for the purposes of section 6 of the Government of Ireland Act 1920 (which provides that the Parliament of Northern Ireland may not repeal or alter Acts of the Parliament of the United Kingdom passed after the day appointed for the purposes of that section) as passed before that day; and

(b) (i) the expression “ Act ” shall include an Act of the Parliament of Northern Ireland;

(ii) in subsection (3) of section 4 (Transfer of business) of this Act for the reference to the Stock Transfer Act 1963 there shall be substituted a reference to the Stock Transfer Act (Northern Ireland) 1963.

1963 c. 18.

1963 c. 24
(N.I.).

Application
to Scotland.

13. This Act shall extend to Scotland, and in the application thereof to Scotland the expression “ mortgage ” means a standard security; and the expression “ will ” includes a trust disposition and settlement.

Costs of Act.

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

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