

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4,030 of 10th October, 2013

Private Member's Bill 01/13

BILL

FOR

AN ACT to make provision in connection with the merger of the Norwich and Peterborough Building Society with the Yorkshire Building Society.

ENACTED by the Legislature of Gibraltar.

Short title and commencement.

1.(1) This Act may be cited as the Yorkshire Building Society Act 2013.

(2) This Act shall come into operation on such day as may be appointed by the Minister.

Application and interpretation.

2.(1) This Act has effect with respect to—

- (a) the body which is established under the law of England and Wales as a building society under the name of “the Yorkshire Building Society” and which carries on business in Gibraltar through the medium of a branch; and
- (b) the body which was established under the law of England and Wales as a building society under the name of “the Norwich and Peterborough Building Society” and which,—
 - (i) at a time before the passing of this Act, carried on business in Gibraltar through the medium of a branch; and

- (ii) under the law of England and Wales merged with YBS through a transfer of engagements which took effect on 1 November 2011;

and in this Act those bodies are referred to respectively as “YBS” and “N & P”.

(2) In this Act—

“the appointed day” means the day appointed for the coming into operation of this Act;

“asset” includes an obligation;

“document” means a document of any description whatsoever, together with any record tape, disc or other thing from which information of any description can be obtained by mechanical, electronic or other means;

“the enlarged YBS” means YBS at a time after N & P merged with it;

“existing” means in existence immediately before the appointed day;

“the interim period” means the period beginning on 1 November 2011 and ending on the appointed day;

“the Minister” means the Minister with responsibility for Financial Services;

“an N & P asset” means an asset of N & P which,—

- (a) was, before 1 November 2011, and remains, immediately before the appointed day, an asset of N & P; and
- (b) is and was throughout the interim period, subject to the law of Gibraltar.

Vesting of outstanding N & P assets in YBS.

3.(1) On the appointed day every N & P asset shall, by virtue of this Act, become an asset of the enlarged YBS in respect of its branch in Gibraltar.

(2) This section has effect subject to section 4.

Excluded property.

4. Nothing in section 3 applies to—

- (a) any interest in land in Gibraltar which immediately before the appointed day is held by N & P, other than an interest held by way of security;
- (b) any pension fund or superannuation plan, fund or scheme established by N & P for any of its employees;
- (c) any contract of insurance in respect of any part of the undertaking of N & P in Gibraltar; or
- (d) any contract for the supply of goods or services to N & P.

Documents.

5.(1) As respects anything done or falling to be done on or after the appointed day with respect to an asset to which section 3 applies, any reference in any existing document to N & P shall be construed as or, as the case may be, as including a reference to the enlarged YBS.

(2) As respects anything done or falling to be done on or after the appointed day, any reference in any relevant existing document to the directors or any description of director, officer or employee of N & P shall be construed as a reference to the directors of YBS or, as the case may be, to such description of director, officer or employee of YBS as YBS may nominate in writing for the purpose or, in default of such a nomination, to that description of director, officer or employee of YBS which corresponds as nearly as may be, to the description specified in the document.

(3) An existing document is a relevant existing document for the purpose of subsection (2) if it is relevant to an asset to which section 3 applies.

(4) On and after the appointed day, all documents which, before that day would, in respect of any matter relating to an N & P asset, have been evidence for or against N & P shall be admissible in respect of the same matter for or against the enlarged YBS.

(5) Nothing in this section applies to a document which is or forms part of an enactment.

Accounts.

6.(1) Subject to subsection (2), any N & P asset which, immediately before the appointed day, was an account between N & P and a customer shall become, on and after that day, an account between the enlarged YBS and that customer with the same rights and subject to the same obligations and incidents (including rights of compensation and set-off) as would have been applicable to the account if it had continued as an account between N & P and the customer; and the account shall be deemed for all purposes to be a single continuing account.

(2) Nothing in subsection (1) affects any right of the enlarged YBS or the customer on or after the appointed day to vary the conditions or incidents subject to which any account is held.

Supplementary provisions as to other matters.

7.(1) The provisions of this section have effect without prejudice to the generality of the preceding provisions of this Act.

(2) Whether or not it is contained in a document, any existing instruction, order, direction, mandate, power of attorney, consent, undertaking or other thing to which N & P was a party or which otherwise affected N & P in respect of an N & P asset shall have effect on and after the appointed day as if the enlarged YBS were a party to it or, as the case may be, shall similarly affect the enlarged YBS on and after that date.

(3) If, under any existing document, N & P would be entitled in respect of any N & P asset—

- (a) to charge remuneration in accordance with a scale for the time being applicable to N & P, or
- (b) otherwise to act in accordance with any terms and conditions for the time being so applicable,

then, on and after the appointed day, the document shall be construed as entitling the enlarged YBS to charge in accordance with the corresponding scale or, as the case may be, to act in accordance with the corresponding terms and conditions for the time being applicable to the enlarged YBS.

(4) On and after the appointed day, any claims or legal proceedings which are existing or pending against N & P in respect of an N & P asset shall be treated for all purposes as if YBS and N& P were the same person in law except that, by virtue of this Act, the name of YBS shall be substituted in those proceedings for that of N & P.

Proceedings relating to N & P assets.

8.(1) This section applies to any proceedings subject to the law of Gibraltar which—

- (a) were begun by the enlarged YBS during the interim period and are continuing at the end of that period; and
- (b) in the opinion of the court relate wholly or principally to the establishment or enforcement of an N & P asset.

(2) Subject to subsection (3), on the appointed day, all proceedings to which this section applies shall be stayed by virtue of this Act.

(3) If the court having jurisdiction in any such proceedings considers it just and equitable, it may direct that the proceedings shall be continued as if the N & P asset had become an asset of the enlarged YBS before the beginning of the interim period and may make the continuation subject to such terms, as to costs and otherwise, as appears to the court to be just and reasonable.

Mortgage releases in the interim period.

9. If at any time in the interim period,—

- (a) the enlarged YBS has purported to give a release in respect of a mortgage which at the time was an asset of N & P subject to the law of Gibraltar; and
- (b) the mortgagor has consented in writing to the release,

the release shall be taken to have had effect as if, prior to the release, the asset had been transferred to YBS.

Expenditure attributable to enactment of this Act.

10. Any expenditure incurred by the Government in connection with the introduction and enactment of this Act, as certified by the Minister, shall be paid by the enlarged YBS.

EXPLANATORY MEMORANDUM

This Bill rectifies an anomaly which occurred following the merger, by way of a transfer of engagements which took effect on 1 November 2011 under the law of England and Wales, of the Norwich and Peterborough Building Society and the Yorkshire Building Society. The enlarged society continues as the Yorkshire Building Society. That merger did not apply to the assets etc. of the Norwich and Peterborough Building Society which were - and remain - subject to the law of Gibraltar.

The Bill effectively transfers most of the outstanding assets and obligations of the Norwich and Peterborough Building Society, which are subject to the law of Gibraltar, to the Yorkshire Building Society. There are specific provisions dealing with certain interests in land, pension funds, third party contracts, documents, accounts, mortgages etc.

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