

# NatWest Offshore (Transfer of Gibraltar Undertaking) Act 2001

## Principal Act

Act. No. 2001-29	<i>Commencement</i>	30.11.2001
	<i>Assent</i>	30.11.2001

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AN ACT TO MAKE PROVISION FOR AND IN CONNECTION WITH THE TRANSFER OF THE GIBRALTAR UNDERTAKING OF NATWEST OFFSHORE LIMITED TO THE ROYAL BANK OF SCOTLAND INTERNATIONAL LIMITED.

**Title and interpretation.**

1.(1) This Act may be cited as the NatWest Offshore (Transfer of Gibraltar Undertaking) Act 2001.

(2) In this Act—

“RBSI” means the company which is incorporated, under the name The Royal Bank of Scotland International Limited, in the Island of Jersey under the Loi (1861) sur les Sociétés à Responsabilité Limitée and of which The Royal Bank of Scotland Group plc (a company incorporated in the United Kingdom) is a parent undertaking;

“NatWest Offshore” means the company which is incorporated, under the name NatWest Offshore Limited, in the Isle of Man under the Companies Act 1865 of the Isle of Man as a company limited by shares, which has a branch in Gibraltar and of which The Royal Bank of Scotland Group plc is also a parent undertaking;

“the change-over date” means the date appointed by the Government of Gibraltar by notice in the Gazette for the purposes of the acquisition by RBSI of the Gibraltar undertaking of NatWest Offshore;

“customer” includes any person having a bank account or other dealing, transaction or arrangement with NatWest Offshore in respect of its Gibraltar undertaking;

“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;

“existing” means in existence immediately before the change-over date (whether or not in force or otherwise having legal effect at that time);

“liabilities” includes debts, duties and obligations of every description wherever arising (whether actual or contingent, present or future);

“property” means property and assets of every description, whether real or personal, moveable or immoveable and wherever situated (including property held on trust and securities, rights, benefits and powers of every description);

“the Gibraltar undertaking of NatWest Offshore” means so much of the business of NatWest Offshore as, immediately before the change-over date, is carried on in Gibraltar, together with such of the existing rights, liabilities and securities of, and the property vested in, belonging to or held by NatWest Offshore (whether beneficially or in a fiduciary capacity) which are situated in Gibraltar or are otherwise subject to the law of Gibraltar;

“parent undertaking” shall be construed in accordance with Schedule 1 to the Financial Institutions (Prudential Supervision) Act 1997;

“securities” includes mortgages, security interests, charges, debentures, fixed securities, floating charges, personal bonds, bills of exchange, promissory notes, trust receipts, warehouse warrants, guarantees, indemnities, liens, rights of retention, pledges or other means of securing payment of a debt, whether present or future, or the discharge of any obligation or liability.

#### **Vesting of Gibraltar undertaking of NatWest Offshore in RBSI.**

2.(1) On the change-over date the Gibraltar undertaking of NatWest Offshore shall, by virtue of this Act (and through the medium of a branch), vest in RBSI to the intent that RBSI shall succeed to that undertaking in all respects as if RBSI were the same person in law as NatWest Offshore.

(2) The following provisions of this Act have effect for the purpose of giving full effect to, and supplementing, the provisions of subsection (1).

#### **Vesting of property.**

3.(1) Subject to any provision of this Act making specific provision in relation to property of any description, all property which, immediately before the change-over date, is property of NatWest Offshore shall, by virtue of this Act (and without any assignment or other form of transfer or the need for any consent), become on that date property of RBSI.

(2) All property which, immediately before the change-over date, is property of NatWest Offshore jointly with any other person shall, by virtue of this Act (and without any assignment or other form of transfer or the need for any consent), become on that date property of RBSI jointly with that other person.

(3) In so far as, immediately before the change-over date, any property to which subsection (1) or subsection (2) applies is subject to the rights or liabilities of any other person, those rights or liabilities shall continue on and after that date in all respects as if RBSI and NatWest Offshore were the same person in law.

(4) Without prejudice to the generality of subsections (1) to (3), those subsections apply to property held subject to any trust or other fiduciary obligation as they apply to property not so held and, accordingly, on and after the change-over date, RBSI shall hold that property (alone or, as the case may be, jointly with any other person) subject to the same trust or fiduciary obligation as applied to NatWest Offshore before that date.

(5) If, immediately before the change-over date, any document or other thing is in the custody or possession of (but is not the property of) NatWest Offshore, then, on that date that document or other thing shall, by virtue of this Act (and without the need for any consent or other dealing), pass into the custody or possession of RBSI to be held in all respects as if RBSI and NatWest Offshore were the same person in law.

**Excluded property.**

4.(1) Subject to subsection (2), nothing in this Act applies to—

- (a) any interest in land which, immediately before the change-over date, is occupied by NatWest Offshore for the purposes of its Gibraltar undertaking;
- (b) any licence held by NatWest Offshore under the Financial Services Act 1989 or the Financial Services (Banking) Act 1992;
- (c) any pension or superannuation fund or scheme or any group assurance or insurance scheme established by NatWest Offshore for its employees;
- (d) any contract or other property of which the proper law is not the law of Gibraltar.

(2) If, at any time after the passing of this Act (whether before, on or after the change-over date), a tenancy falling within subsection (1)(a) is assigned by NatWest Offshore to RBSI, then, without prejudice to the operation of section 62(2)(c) of the Landlord and Tenant Act 1983 (assignment of tenancy from one member of a group to another not to be treated as a change in the person of the tenant) nothing in section 69 of that Act (consents to assignment) shall apply in relation to that assignment.

**Documents.**

5.(1) Subject to any specific provision made by the following provisions of this Act in relation to a document or reference of a particular description, as respects anything done or falling to be done, or any other thing occurring, on or after the change-over date, any reference in an existing document to NatWest Offshore shall be construed as or, as the case may require, as including a reference to RBSI.

(2) As respects anything done or falling to be done on or after the change-over date, any reference in an existing document to the directors or any description of director, officer or employee of NatWest Offshore shall be construed as a reference to the directors of RBSI or, as the case may be, to such description of director, officer or employee of RBSI as RBSI may nominate in writing for the purpose or, in default of such a nomination, to that description of director, officer or employee of RBSI which corresponds as nearly as may be to the description specified in the document.

(3) On and after the change-over date, all documents which, before that date, would have been evidence in respect of any matter for or against NatWest Offshore shall be admissible in respect of the same matter for or against RBSI.

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

**Accounts.**

6.(1) Subject to subsection (2), any existing account between NatWest Offshore and a customer shall become, on and after the change-over date, an account between RBSI 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 NatWest Offshore and the customer; and the account shall be deemed for all purposes to be a single continuing account.

(2) Nothing in subsection (1) shall affect any right of RBSI or the customer on or after the change-over date to vary the conditions or incidents subject to which any account is kept.

**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 NatWest Offshore is a party or which otherwise affects NatWest Offshore shall have effect on and after the change-over date as if RBSI were a party to it or, as the case may be, shall similarly affect RBSI on and after that date.

(3) If, under any existing document, NatWest Offshore is or would be entitled in respect of any matter—

- (a) to change remuneration in accordance with a scale for the time being applicable to NatWest Offshore, or
- (b) otherwise to act in accordance with any terms and conditions for the time being so applicable,

then, on and after the change-over date, the document shall be construed as entitling RBSI 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 RBSI.

(4) On and after the change-over date, any claims or legal proceedings which are existing or pending before that date by or against NatWest Offshore shall be treated for all purposes as if RBSI and NatWest Offshore were the same person in law except that, by virtue of this Act, the name of RBSI shall be substituted in those proceedings for that of NatWest Offshore.

(5) In any case where—

- (a) an existing obligation of NatWest Offshore becomes, by virtue of this Act, an obligation of RBSI, and
- (b) before the change-over date, the performance of that obligation was in any way or to any extent guaranteed by RBSI,

the guarantee shall cease to have effect on that date.

(6) So far as relates to RBSI carrying on in or from within Gibraltar the business formerly carried on by NatWest Offshore, RBSI shall be treated for the purposes of the charge to tax as the continuation (without any change of legal entity) of NatWest Offshore and, accordingly, the vesting of the Gibraltar undertaking of NatWest Offshore in RBSI shall not be regarded as constituting (or giving rise to) the cessation or commencement of a business or source of income.

#### **Application of Bankers' Books Evidence Act 1879.**

8.(1) On and after the change-over date, the Bankers' Books Evidence Act 1879 (in this section referred to as "the 1879 Act") shall apply to the bankers' books of NatWest Offshore which, by virtue of this Act, become the property of RBSI as if those books were the bankers' books of RBSI.

(2) For the purposes of the application on and after the change-over date of section 4 of the 1879 Act to a copy of an entry purporting to be made before that date in a book to which subsection (1) applies,—

- (a) at the time of the making of the entry the book shall be deemed to have been an ordinary book of RBSI; and
- (b) the entry shall be deemed to have been made in the usual and ordinary course of business.

(3) Section 9(2) of the 1879 Act (construction of expressions relating to “bankers’ books”) shall apply in relation to this section as it applies in relation to that Act.

**Evidence as to transfer of property.**

9. Any document coming into existence after the change-over date whereby RBSI, whether alone or jointly with any other person,—

- (a) conveys or transfers or purports to convey or transfer, or
- (b) applies to be registered as the holder or proprietor of,

any property which, immediately before the change-over date, was held by NatWest Offshore, whether alone or jointly with any other person, shall be prima facie evidence that the interest of NatWest Offshore in that property became vested in RBSI by virtue of this Act.

**Expenditure attributable to enactment of Act.**

10. The expenditure incurred by the Government in connection with the introduction and enactment of this Act, as certified by the Minister for Trade, Industry and Telecommunications shall be paid by RBSI.