



## **BELIZE**

# **THE BANK UNDERTAKING (THE BANK OF NOVA SCOTIA BELIZE OPERATIONS) ACT CHAPTER 263:03**

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**CHAPTER 263:03**

**THE BANK UNDERTAKING (THE BANK OF NOVA SCOTIA  
BELIZE OPERATIONS)**

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**CHAPTER 263:03**

**THE BANK UNDERTAKING (THE BANK OF NOVA SCOTIA BELIZE OPERATIONS)**

17 of 2003.  
S.I. 81 of 2003.

*[1<sup>st</sup> July, 2003]*

Short title.            **1.** This Act may be cited as the he Bank Undertaking (The Bank Of Nova Scotia Belize Operations) Vesting Act.

Interpretation.      **2.** In this Act, unless the context otherwise requires,

“Agreement” means the Business Transfer Agreement dated the 5<sup>th</sup> day of June 2003 and made between the Bank of Nova Scotia, Scotia Bank (Belize) Ltd., and The Bank of Nova Scotia International Ltd., setting out the terms for the transfer of the banking business of The Bank of Nova Scotia in Belize to Scotiabank (Belize) Ltd.;

“Appointed Day” means the day to be appointed by the Minister by Order published in the *Gazette*;

“customer” includes any person having a banking account, loan, deposit, or other dealing, transaction or arrangement in Belize with The Bank of Nova Scotia in the course of normal business;

“existing” means in existence or in force (as the case may require) immediately before the close of business on the Appointed Day;

“Minister” means the Minister for the time being responsible for banks and banking;

“security” includes any mortgage or charge (whether legal or equitable), debenture, guarantee, bill of sale, lien, pledge, (whether actual or constructive), hypothecation, indemnity, undertaking or other means of securing the payment of discharge of a debt or liability or obligation in Belize (whether present or future, actual or contingent);

“Undertaking” or “Undertaking of the Transfer” means the assets, liabilities, rights, obligations, property and documentation of the banking business of The Bank of Nova Scotia carried on in Belize and which has been agreed to be transferred pursuant to the terms of agreement, including (but not limited to) the property, rights, liabilities and obligations specified in the Schedule to this Act, but not including those assets and liabilities which are expressly excluded by the terms of the Agreement and specifically excluding any security issued by persons resident in Belize in respect of loans made to persons resident in Belize by the Transferor which are recorded in the books of the Transferor outside of Belize;

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

3.–(1) Subject to the Agreement, at the close of business on the Appointed Day, the Undertaking of the Transferor shall by virtue of this Act vest absolutely in the Transferee without any further assurance, and upon such vesting all existing assets, liabilities, rights, obligations and other property which by the Agreement have been agreed to be transferred shall vest in the Transferee, and where any real property and any security has, by virtue of this Act, vested in the Transferee, the Registrar General, the Registrar of Lands and the Registrar of Companies shall take due notice thereof and shall, on the issue of a certificate under the hand of the Financial Secretary, certifying that all taxes, stamp duties, registration fees and other duties and charges payable to the Government of Belize in respect of the transfer of the Undertaking, have been duly paid, make such annotations on the records as may be necessary and issue all such certificates as may be required to perfect the title of the Transferee to such real property or security.

Vesting of rights to the Bank of Nova Scotia.

(2)The Transfer or vesting of any part of the Undertaking of the Transferor effected by this Act shall not,

- (a) operate as a breach of covenant or condition against alienation;
- (b) give rise to forfeiture; or
- (c) invalidate or discharge any contract or security.

Effect of the Act  
on the undertak-  
ing.

**4.-(1)** The effect of this Act as regards the under hereby transferred shall be that as and from the close of business on the Appointed Day,

- (a) every existing contract and security comprised in the undertaking to which the Transferor is a party, whether in writing or not, shall be construed and have effect as if,
  - (i) the Transferee had been a party thereto instead of the Transferor;
  - (ii) for any reference (however worded and whether expressed or implied) to the Transferor there had been substituted, as respects anything failing to be done after the close of business on the Appointed Day, a reference to the Transferee;
  - (iii) for any reference (however worded and whether expressed or implied) to the directors or to any director, officer, clerk or servant of the Transferor there had been substituted, in respect of anything failing to be done after the close of business on the Appointed Day, a reference (as the case may require) to the directors of the Transferee or to such director, officer, clerk or servant of the Transferee as the Transferee may appoint or, in default of appointment, to the director, officer, clerk or servant of the Transferee corresponding as nearly as may be to the above mentioned director, officer, clerk or servant; and
  - (iv) for any reference (however worded and whether expressed or implied) to the Transferor there had been substituted, as respects any benefit or benefits to accrue after the close of business on the Appointed Day a reference to the Transferee;

- (b) any account between the Transferor and a customer shall be construed as and deemed to be an account between the Transferee and that customer;
- (c) any instruction, direction, mandate, power of attorney, guarantee, pledge, assignment, debenture, mortgage, bill of sale, charge, chose in action, insurance policy, security or consent given to the Transferor shall have effect as if given to the Transferee without notification to the maker thereof;
- (d) any negotiable or non-negotiable instrument or order for payment of money which is expressed to be drawn on, given to, accepted or endorsed by the Transferor, or payable at any of its places of business shall have effect as if it had been drawn on, given to, accepted or endorsed by the Transferee or payable at the place of business of the Transferee;
- (e) any security transferred to the Transferee by virtue of this Act that immediately before the close of business on the Appointed Day was held by the Transferor as security for the payment or discharge of any debt, liability or obligation, whether present or future, actual or contingent, shall be held by and shall be available to, the Transferee as security for the payment or discharge of such debt, liability or obligation, and any such security which extends to future advances or liabilities shall, from the close of business on the Appointed Day, be held by and shall be available to, the Transferee as security for future advances by, and future liabilities to, Transferee in the same manner and in all respects as future advances by, or liabilities to, the Transferor were secured thereby immediately before the close of business on the Appointed Day;
- (f) any judgment or award obtained by or against the Transferor and not fully satisfied before the close of business on the Appointed Day shall be enforceable by or against the Transferee;

- (g) subject to the Agreement, any past, current or pending contracts, orders, engagements, obligations, duties, rights or agreements by or with the Transferor shall be enforceable by or against the Transferee only;
- (h) a reference to the Transferor in the register required by section 95 of the Companies Act, Cap. 250, to be kept by the Registrar of Companies, and in the registers required to be kept by the Registrar General and the Registrar of Lands, shall be deemed to be a reference to the Transferee.

(2) Subsection (1) (a) (ii) and (iii) of this section apply to,

- (a) any statutory provision;
- (b) any provision of any contract or security to which the Transferor was not a party; and
- (c) any provision of any other document (including a will),

as they apply in relation to a contract to which paragraph (a) of subsection (1) of this section applies.

(3) Any property or rights transferred to and vested in the Transferee which immediately before the close of business on the Appointed Day were held by the Transferor, whether severally or jointly with any other person,

- (a) as trustee or custodian trustee of any trust, deed, settlement, covenant, agreement or will, and whether originally so appointed or not, and whether appointed under hand or seal or by order of any court;
- (b) as executor of the will of a deceased person;
- (c) as administrator of the estate of a deceased person;
- (d) as judicial trustee appointed by order of any court; or



(e) in any other fiduciary capacity whatsoever,

shall, on and from the close of business on the Appointed Day, be held by the Transferee, whether severally or jointly with any other person, in the same capacity upon the trusts, and with and subject to the powers, provisions, liabilities and obligations applicable thereto respectively.

**5.** Any notice which may be required under the Laws of Belize to be given by the Transferor or the Transferee to any Third party or to be published, and any authorization, permission or consent required to be obtained for the perfecting of any transfer or assignment, the effective exercise of any right, the enjoyment of any benefit or the assumption of any liability or obligation by the Transferee by virtue of the vesting in the Transferee of the Undertaking, shall be deemed to have been duly given, published and obtained by the passing of this Act.

Notice of consent.

## SCHEDULE

THE BANK UNDERTAKING (THE BANK OF NOVA SCOTIA  
BELIZE OPERATIONS) ACT*Transferred Rights and Property**[Section 3]*

## Part 1

*Assets*

All assets of the banking business carried on by the Transferor in Belize which at the close of business on the Appointed Day are recorded on the books and files of the Transferor in Belize or have been allocated to the said banking business (but not including those assets which are expressly excluded by the terms of the Agreement), which assets consist of all the estate, right, title and interest and responsibilities of the Transferor in and to all property of the Transferor recorded in such books or so allocated of every kind and description both real and personal, movable and immovable, corporeal and incorporeal, which assets include the properties set out hereunder but excluding specifically any security issued by persons resident in Belize in respect of loans made to persons resident in Belize by the Transferor which are recorded in the books of the Transferor outside of Belize, as at the close of business on the Appointed Day.

*Freehold Properties*

1. Land and office premises on Bishop Street between Albert and Regent Streets in Belize City,

Lots 68 and 69 – Transfer Certificate of Title dated September 7<sup>th</sup>1967; Folio 24 Vol. 7;

Lot 70 – Transfer Certificate of Title dated September 7, 1967, Folio No. 25 Vol. 7;

Lot 71 – Transfer Certificate of Title dated December 23, 1968, Folio No. 22 Vol. 7.

2. Land and office premises at Lot No. 249 on 2<sup>nd</sup> Street South (Price Street) Minister's Fiat Grant No. 77 of 1965 dated November 6<sup>th</sup> 1965;

*Leasehold Properties*

1. Corozal Branch Block 1 Parcels 497 and 496, 82 Fourth Avenue, Corozal Town
2. Belama Branch Block 16 Parcel 973, 2 ½ Miles Northern Highway
3. Orange Walk Branch Lot Corner Main and Park Streets, Orange Walk Town
4. Dangriga Branch – 108 St. Vincent Street, Dangriga Town, Stann Creek District
5. San Ignacio Branch – Lot on Burns Avenue, San Ignacio Town
6. Belmopan Branch – 1915 Constitution Drive, Belmopan

Part 2

*Liabilities and Obligations Assumed*

ALL debts, liabilities, contractual engagements and obligations whatsoever (actual, contingent or otherwise) of the Transferor in Belize as at the close of business on the Appointed Day and comprising debts, contractual engagements, liabilities and obligations to customers and others incurred by the Transferor in carrying on the Undertaking by excluding those liabilities which are expressly excluded by the terms of the Agreement.