



Banking (Special Provisions) Act 2008

2008 CHAPTER 2

Introduction

1 Meaning of “authorised UK deposit-taker”

- (1) In this Act “authorised UK deposit-taker” means a UK undertaking that under Part 4 of FSMA 2000 has permission to accept deposits.
- (2) That expression does not, however, include such an undertaking with permission to accept deposits only for the purposes of, or in the course of, an activity other than accepting deposits.

2 Cases where Treasury’s powers are exercisable

- (1) The power of the Treasury to make an order under—
 - (a) section 3 (transfer of securities issued by an authorised UK deposit-taker), or
 - (b) section 6 (transfer of property, rights and liabilities of an authorised UK deposit-taker),

is exercisable in relation to an authorised UK deposit-taker if (and only if) it appears to the Treasury to be desirable to make the order for either or both of the following purposes.

This is subject to subsection (7).

- (2) The purposes are—
 - (a) maintaining the stability of the UK financial system in circumstances where the Treasury consider that there would be a serious threat to its stability if the order were not made;
 - (b) protecting the public interest in circumstances where financial assistance has been provided by the Treasury to the deposit-taker for the purpose of maintaining the stability of the UK financial system.
- (3) The reference in subsection (2)(b) to the provision of financial assistance by the Treasury to the deposit-taker includes—

- (a) any case where the Bank of England has provided financial assistance to the deposit-taker and—
 - (i) the Treasury have assumed a liability in respect of the assistance,
 - (ii) the liability is of a kind of which the Treasury are expected to give relevant notice, and
 - (iii) the Treasury have given relevant notice of the liability;
 - (b) any case where the Chancellor of the Exchequer has announced that the Treasury (whether acting alone or with the Bank of England) would, if necessary, put in place relevant guarantee arrangements in relation to the deposit-taker (as well as any case where any such arrangements have been put in place, whether or not following such an announcement).
- (4) For the purposes of subsection (3) the Treasury give “relevant notice” of a liability if—
- (a) they lay a Minute before the House of Commons containing information about the liability, or
 - (b) they give written notice containing such information to the person who chairs the House of Commons Committee of Public Accounts and the person who chairs the House of Commons Treasury Committee.
- (5) It is immaterial whether the notice or announcement mentioned in subsection (3) is given or made before or after the passing of this Act.
- (6) In this Act “relevant guarantee arrangements”, in relation to any authorised UK deposit-taker, means any guarantee arrangements for protecting some or all of the depositors or other creditors of the deposit-taker.
- (7) Where an order has been made under section 3 or 6 in relation to any authorised UK deposit-taker, subsection (1) does not apply in relation to any subsequent exercise of the power to make an order under either of those sections in relation to that deposit-taker.
- (8) The power of the Treasury to make an order under section 3 or 6 in relation to an authorised UK deposit-taker may not be exercised after the end of the period of one year beginning with the day on which this Act is passed.
- (9) Subsection (8) does not affect the continuation in force or effect of any order made or other thing done by virtue of either of those sections before the end of that period.
- (10) In this section “the UK financial system” means the financial system in the United Kingdom.
- (11) Section 13 of the National Audit Act 1983 (c. 44) (interpretation of references to Committee of Public Accounts) applies for the purposes of this section, but as if—
- (a) the references in that section to that Act were to this Act, and
 - (b) the references in that section to the House of Commons Committee of Public Accounts included the House of Commons Treasury Committee.