



Financial Services Act 2012

2012 CHAPTER 21

PART 8

AMENDMENTS OF BANKING ACT 2009

Special resolution regime and bank administration

100 Groups

- (1) The Banking Act 2009 is amended as follows.
- (2) In section 1 (overview), for the entry in the Table relating to sections 82 and 83 substitute—

“Sections 81B to 83	Groups”.
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- (3) In section 20 (directors), after subsection (1) insert—
 - “(1A) Subsection (1) also applies to a director of any undertaking which is a banking group company in respect of a specified bank.”
- (4) After section 36 insert—

“36A Directors

- (1) A property transfer instrument may enable the Bank of England—
 - (a) to remove a director of a specified bank;
 - (b) to vary the service contract of a director of a specified bank;
 - (c) to terminate the service contract of a director of a specified bank;
 - (d) to appoint a director of a specified bank.
- (2) Subsection (1) also applies to a director of any undertaking which is a banking group company in respect of a specified bank.

Changes to legislation: Financial Services Act 2012, Section 100 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) Appointments under subsection (1)(d) are to be on terms and conditions agreed with the Bank of England.”
- (5) For the italic heading before section 82 substitute “ *Groups* ”, and after that heading insert—

“81B Sale to commercial purchaser and transfer to bridge bank

- (1) The Bank of England may exercise a stabilisation power in respect of a banking group company in accordance with section 11(2) or 12(2) if the following conditions are met.
- (2) Condition 1 is that the PRA is satisfied that the general conditions for the exercise of a stabilisation power set out in section 7 are met in respect of a bank in the same group.
- (3) Condition 2 (which does not apply in a financial assistance case) is that the Bank of England is satisfied that the exercise of the power in respect of the banking group company is necessary, having regard to the public interest in—
- (a) the stability of the financial systems of the United Kingdom,
 - (b) the maintenance of public confidence in the stability of those systems,
 - (c) the protection of depositors, or
 - (d) the protection of any client assets that may be affected.
- (4) Condition 3 (which applies only in a financial assistance case) is that—
- (a) the Treasury have recommended the Bank of England to exercise a stabilisation power on the grounds that it is necessary to protect the public interest, and
 - (b) in the Bank's opinion, exercise of the power in respect of the banking group company is an appropriate way to provide that protection.
- (5) Condition 4 is that the banking group company is an undertaking incorporated in, or formed under the law of any part of, the United Kingdom.
- (6) Before determining whether Condition 2 or 3 (as appropriate) is met, the Bank of England must consult—
- (a) the Treasury,
 - (b) the PRA, and
 - (c) the FCA.
- (7) In exercising a stabilisation power in reliance on this section the Bank of England must have regard to the need to minimise the effect of the exercise of the power on other undertakings in the same group.
- (8) In this section “financial assistance case” means a case in which the Treasury notify the Bank of England that they have provided financial assistance in respect of a bank in the same group for the purpose of resolving or reducing a serious threat to the stability of the financial systems of the United Kingdom.

81C Section 81B: supplemental

- (1) In the following provisions references to banks include references to banking group companies—

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- (a) section 10(1), and
 - (b) section 75(5)(a).
- (2) Where the Bank of England exercises a stabilisation power in respect of a banking group company in reliance on section 81B, the provisions relating to the stabilisation powers and the bank administration procedure contained in this Act (except sections 7 and 8) and any other enactment apply (with any necessary modifications) as if the banking group company were a bank.
- (3) For the purposes of the application of section 143 (grounds for applying for bank administration order), the reference in subsection (2) to the Bank of England exercising a stabilisation power includes a case where the Bank of England intends to exercise such a power.

81D Interpretation: “banking group company” &c.

- (1) In this Part “banking group company” means an undertaking—
- (a) which is (or, but for the exercise of a stabilisation power, would be) in the same group as a bank, and
 - (b) in respect of which any conditions specified in an order made by the Treasury are met.
- (2) An order may require the Bank of England to consult specified persons before determining whether the conditions are met.
- (3) An order—
- (a) is to be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (4) If an order contains a statement that the Treasury are of the opinion that, by reason of urgency, it is necessary to make the order without complying with subsection (3)(b)—
- (a) the order may be made, and
 - (b) the order lapses unless approved by resolution of each House of Parliament during the period of 28 days (ignoring periods of dissolution, prorogation or adjournment of either House for more than 4 days) beginning with the day on which the order is made.
- (5) The lapse of an order under subsection (4)(b)—
- (a) does not invalidate anything done under or in reliance on the order before the lapse and at a time when neither House has declined to approve the order, and
 - (b) does not prevent the making of a new order (in new terms).
- (6) Undertakings are in the same group for the purposes of sections 81B, 81C and this section if they are group undertakings in respect of each other.
- (7) Expressions defined in the Companies Act 2006 have the same meaning in section 81B and this section as in that Act.”
- (6) In the Table in section 259 (statutory instruments), in Part 1 after the entry relating to section 78 insert—

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“81D Meaning of “banking group company”	Draft affirmative resolution (except for urgent cases)”
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(7) In the Table in section 261 (index of defined terms), after the entry relating to “bank insolvency order” insert—

“Banking group company	81D”.
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Commencement Information

- I1** S. 100(1)(6)(7) in force at 5.6.2014 for specified purposes by S.I. 2014/1447, **art. 2(a)(c)**
- I2** S. 100(1)(5)-(7) in force at 1.8.2014 in so far as not already in force by S.I. 2014/1847, **art. 2**
- I3** S. 100(2)-(4) in force at 1.8.2014 by S.I. 2014/1847, **art. 2**
- I4** S. 100(5) in force at 5.6.2014 for specified purposes by S.I. 2014/1447, **art. 2(b)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act power to apply conferred (temp.) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp.) by [2014 c. 21 s. 81\(10\)](#)