
STATUTORY INSTRUMENTS

2009 No. 317

**The Banking Act 2009 (Parts 2 and 3
Consequential Amendments) Order 2009**

PART 3

Specific Modifications and Amendments to Legislation

Financial Services and Markets Act 2000

5.—(1) The following provisions of the Financial Services and Markets Act 2000⁽¹⁾ apply with the modifications set out in this article.

(2) In section 215 (Rights of the scheme in relevant person’s insolvency)—

(a) in subsection (3)⁽²⁾, the reference to making an administration application is to be read as including making an application for a bank administration order under section 142 of the 2009 Act, and

(b) subsection (4) is to be read as if it read the following—

“(4) In the case of a bank insolvency (as defined in Part 2 of the Banking Act 2009), if the scheme manager decides, pursuant to section 100(6)(d) of that Act, not to remain on the liquidation committee, the scheme manager shall retain the rights it usually enjoys in respect of the winding up of a relevant person under section 371(3) and (4).”.

(3) In section 355 (Interpretation of Part 24), the definition of “court” is to be read as if “, unless otherwise provided,” were inserted after the word “means”.

(4) In section 361⁽³⁾ (Administrator’s duty to report to Authority), references to—

(a) “administration” are to be read as including a reference to bank administration under Part 3 of the 2009 Act; and

(b) “the administrator” are to be read as including the bank administrator under Part 3 of the 2009 Act.

(5) In section 362 (Authority’s powers to participate in proceedings)—

(a) references to “court”—

(i) in the context of a bank administration under Part 3 of the 2009 Act in England, Wales or Northern Ireland, are to be read as meaning the High Court, and

(ii) in the context of a bank administration under Part 3 of the 2009 Act in Scotland, are to be read as meaning the Court of Session,

⁽¹⁾ 2000 c.8.

⁽²⁾ Subsection (3) was amended by the Enterprise Act 2002 (2002 c.40), section 248 and Schedule 17, paragraphs 53, 54(1) and (2); and the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455), article 3(3) and Schedule 2, paragraphs 56, 57(1) and (2).

⁽³⁾ Section 361 was amended by the Enterprise Act 2002 (2002 c.40), section 248(3) and Schedule 17, paragraphs 53 and 56. Section 361(1) was amended by the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455), article 3(3) and Schedule 2, paragraphs 56 and 59.

- (b) in subsection (1), the reference to making an administration application is to be read as including making an application for a bank administration order under section 142 of the 2009 Act, and
 - (c) in subsections (4)(4) and (4A)(5), references to paragraph 74 of Schedule B1 to the Insolvency Act 1986 and paragraph 75 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989 are to be read as including references to those provisions as applied and modified by section 145 of the 2009 Act.
- (6) In section 370 (Liquidator’s duty to report to Authority), references to “liquidator” are to be read as including a reference to a bank liquidator under Part 2 of the 2009 Act.
- (7) In section 375 (Authority’s right to apply for an order), references to the provisions of the Insolvency Act 1986 and the Insolvency (Northern Ireland) Order 1989 are to be read as including references to those provisions as applied and modified by section 103 and section 134 of the 2009 Act.

(4) Subsection 4 was amended by the Enterprise Act 2002 (2002 c.40), section 248(3) and Schedule 17, paragraphs 53 and 57(d); and the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455), article 3(3) and Schedule 2, paragraphs 56 and 60(1) and (5).

(5) Subsection 4A was amended by the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455), article 3(3) and Schedule 2, paragraphs 56 and 60(1) and (6).