



Banking Act 2009

2009 CHAPTER 1

PART 2

BANK INSOLVENCY

Tenure of bank liquidator

106 Term of appointment

A bank liquidator appointed by bank insolvency order remains in office until vacating office—

- (a) by resigning under section 107,
- (b) on removal under section 108 or 109,
- (c) on disqualification under section 110,
- (d) on the appointment of a replacement in accordance with section 112,
- (e) in accordance with sections 113 to 115, or
- (f) on death.

107 Resignation

- (1) A bank liquidator may resign by notice to the court.
- (2) Rules under section 411 of the Insolvency Act 1986 (as applied by section 125 below) may restrict a bank liquidator's power to resign.
- (3) Resignation shall take effect in accordance with those rules (which shall include provision about release).

108 Removal by court

- (1) A bank liquidator may be removed by order of the court on the application of—
 - (a) the liquidation committee,
 - (b) the FSA, or

Status: This is the original version (as it was originally enacted).

(c) the Bank of England.

- (2) Before making an application the FSA must consult the Bank of England.
- (3) Before making an application the Bank of England must consult the FSA.
- (4) A bank liquidator removed by order has release with effect from a time determined by—
 - (a) the Secretary of State, or
 - (b) in the case of a bank liquidator in Scotland, the Accountant of Court.

109 Removal by creditors

- (1) A bank liquidator may be removed by resolution of a meeting of creditors held pursuant to section 195 of the Insolvency Act 1986 (as applied by section 103 above) provided that the following conditions are met.
- (2) Condition 1 is that the liquidation committee has passed a full payment resolution.
- (3) Condition 2 is that the notice given to creditors of the meeting includes notice of intention to move a resolution removing the bank liquidator.
- (4) Condition 3 is that the Bank of England and the FSA—
 - (a) receive notice of the meeting, and
 - (b) are given an opportunity to make representations to it.
- (5) A bank liquidator who is removed under this section has release with effect—
 - (a) from the time when the court is informed of the removal, or
 - (b) if the meeting removing the bank liquidator resolves to disapply paragraph (a), from a time determined by—
 - (i) the Secretary of State, or
 - (ii) in the case of a bank liquidator in Scotland, the Accountant of Court.

110 Disqualification

- (1) If a bank liquidator ceases to be qualified to act as an insolvency practitioner, the appointment lapses.
- (2) A bank liquidator whose appointment lapses under subsection (1) has release with effect from a time determined by—
 - (a) the Secretary of State, or
 - (b) in the case of a bank liquidator in Scotland, the Accountant of Court.

111 Release

A bank liquidator who is released is discharged from all liability in respect of acts or omissions in the bank insolvency and otherwise in relation to conduct as bank liquidator (but without prejudice to the effect of section 212 of the Insolvency Act 1986 as applied by section 103 above).

112 Replacement

- (1) Where a bank liquidator vacates office the Bank of England must as soon as is reasonably practicable appoint a replacement bank liquidator.
- (2) But where a bank liquidator is removed by resolution of a meeting of creditors under section 109—
 - (a) a replacement may be appointed by resolution of the meeting, and
 - (b) failing that, subsection (1) above applies.