



Banking (Special Provisions) Act 2008

2008 CHAPTER 2

Supplementary

9 Supplementary provision about compensation schemes etc.

- (1) An order under section 5, 7 or 8(6) may in particular make provision—
- (a) for the manner in which any compensation or consideration is to be assessed, including provision as to methods of calculation, valuation dates and matters to be taken into, or left out of, account in making valuations;
 - (b) for the assessment to be made by an independent valuer appointed by the Treasury;
 - (c) as to the procedure in relation to the assessment of any compensation or consideration, including provision enabling any such valuer to make rules as to that procedure;
 - (d) for decisions relating to the assessment of any compensation or consideration to be reconsidered by the person who made those decisions (including any such provision as to procedure as is mentioned in paragraph (c));
 - (e) for enabling persons to apply for decisions relating to the assessment of any compensation or consideration to be reviewed by the Financial Services and Markets Tribunal or a tribunal appointed by the Treasury for the purposes of the order;
 - (f) as to the powers of a relevant tribunal (that is to say, the Financial Services and Markets Tribunal or a tribunal appointed by the Treasury for the purposes of the order);
 - (g) as to the procedure for applying for any review to a relevant tribunal, including provision enabling the tribunal to make rules as to that procedure;
 - (h) as to remuneration and expenses of any independent valuer, or of any tribunal, appointed by the Treasury for the purposes of the order;
 - (i) as to the appointment of any staff of any such valuer (including provision as to their terms and conditions of employment and as to their pensions, allowances or gratuities).

- (2) The provision that may be made by virtue of subsection (1)(a) includes the making of assumptions as to any matter, including in particular the making of one or more of the following assumptions about the authorised UK deposit-taker in question—
- (a) that it is unable to continue as a going concern;
 - (b) that it is in administration;
 - (c) that it is being wound up.
- (3) Subsection (1)(a) is subject to sections 5(4) and 7(3), but those subsections do not—
- (a) prevent the inclusion of provision requiring the making of the assumptions mentioned in those subsections in any case where they are not required to be made by either of those subsections; or
 - (b) otherwise restrict the provision that may be made by virtue of subsection (1)(a).
- (4) In subsection (1)(a) the reference to valuation dates includes—
- (a) valuation dates falling before the day on which this Act is passed; and
 - (b) valuation dates falling before the day on which the relevant event takes place.
- (5) In subsection (1)(e)—
- (a) the reference to persons includes the Treasury; and
 - (b) the reference to decisions relating to the assessment of any compensation or consideration includes decisions following any such reconsideration as is mentioned in subsection (1)(d).
- (6) The provision that may be made by virtue of subsection (1)(f)—
- (a) includes provision enabling a relevant tribunal, where satisfied that the decision in question was not a reasonable decision, to send the matter back to the person who made the decision for reconsideration in accordance with such directions (if any) as it considers appropriate; but
 - (b) does not include provision enabling a relevant tribunal to substitute its own decision for that of the person who made the decision.
- (7) The power of any valuer or tribunal to make provision as to procedure by virtue of subsection (1)(c), (d) or (g) includes power to make different provision for different cases or circumstances.
- (8) In this section “the relevant event” means the transfer or (as the case may be) extinguishment of rights made by or under the order to which the order mentioned in subsection (1) relates.

10 Tax consequences

- (1) The Treasury may by regulations make provision for or in connection with varying the way in which any relevant tax would, apart from the regulations, have effect in relation to, or in connection with, any of the following—
- (a) anything done for the purpose of, in relation to, or by or under or in consequence of, a relevant order;
 - (b) any securities, or any property, rights or liabilities, which are transferred, extinguished or otherwise affected by any provision made by or under a relevant order;
 - (c) any securities issued by, or any property, rights or liabilities of, any transferee which have not been transferred by or under a relevant order;

- (d) any securities issued by, or any property, rights or liabilities of, any relevant institution which have not been so transferred.
- (2) The provision that may be made by the regulations includes provision for or in connection with any of the following—
- (a) a tax provision not to apply, or to apply with modifications, in prescribed cases or circumstances;
 - (b) anything done to have or not to have a specified consequence for the purposes of a tax provision in prescribed cases or circumstances;
 - (c) any securities, or any property, rights or liabilities, to be treated in a specified way for the purposes of a tax provision in prescribed cases or circumstances (whether or not affected by any provision made by or under a relevant order);
 - (d) the withdrawal of relief (whether or not granted by virtue of the regulations), and the charging of any relevant tax, in prescribed cases or circumstances;
 - (e) requiring or enabling the Treasury to determine, or to specify the method to be used for determining, anything (including amounts or values, or times or periods of time) which needs to be determined for the purposes of any tax provision (whether or not modified by the regulations) as it applies in relation to, or in connection with, any of the matters mentioned in subsection (1)(a) to (d).
- (3) In this section—
- “prescribed” means prescribed by or determined in accordance with regulations under this section;
 - “relevant institution” means any body in relation to which a relevant order is made;
 - “relevant order” means an order under section 3, 4, 6 or 8;
 - “relevant tax” means corporation tax, income tax, capital gains tax, stamp duty, stamp duty reserve tax and stamp duty land tax;
 - “tax provision” means any enactment relating to any relevant tax;
 - “transferee” means any person to whom any securities, or any property, rights or liabilities, are transferred by or under a relevant order.