



Banking Act 2009

2009 CHAPTER 1

PART 1

SPECIAL RESOLUTION REGIME

Holding companies

82 Temporary public ownership

- (1) The Treasury may take a parent undertaking of a bank (the “holding company”) into temporary public ownership, in accordance with section 13(2), if the following conditions are met.
- (2) Condition 1 is that the FSA are satisfied that the general conditions for the exercise of a stabilisation power set out in section 7 are met in respect of the bank.
- (3) Condition 2 is that the Treasury are satisfied that it is necessary to take action in respect of the holding company for the purpose specified in Condition A or B of section 9.
- (4) Condition 3 is that the holding company is an undertaking incorporated in, or formed under the law of any part of, the United Kingdom.
- (5) Before determining whether Condition 2 is met the Treasury must consult—
 - (a) the FSA, and
 - (b) the Bank of England.
- (6) Expressions used in this section have the same meaning as in the Companies Act 2006.

83 Supplemental

- (1) In the following provisions references to banks include references to holding companies—
 - (a) section 10(1),
 - (b) section 13(3),

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- (c) section 16(1), and
 - (d) section 75(5)(a).
- (2) Where the Treasury take a bank's holding company into temporary public ownership in reliance on section 82—
- (a) section 20(2) applies to (i) directors of the holding company, (ii) directors of the bank, and (iii) directors of a bank in the same group,
 - (b) section 25(2) applies as if references to a bank were references to a holding company,
 - (c) sections 27 to 29 apply as if references to a bank were references to a holding company,
 - (d) a share transfer may be made in respect of securities which were issued by the bank or by another bank which is or was in the same group; and a transfer—
 - (i) shall be made by onward share transfer order under section 28 or by reverse share transfer order under section 29 (in addition to any that may be made under those sections as applied by paragraph (c) above),
 - (ii) may be made under section 28 only in respect of securities held by (or for the benefit of) the holding company or a subsidiary undertaking of the holding company,
 - (iii) is not subject to section 28(4),
 - (iv) may be made under section 29 only in respect of securities held by a person of a kind listed in section 29(3)(b), and
 - (v) is not (otherwise) subject to section 29(3),
 - (e) section 45 applies as if—
 - (i) the reference to a bank in subsection (1) were a reference to a holding company, and
 - (ii) a reference to the bank in subsection (3) were a reference to the holding company, the bank and any other bank which is or was in the same group,
 - (f) sections 65 to 68 apply, with—
 - (i) references to the bank or the transferred bank taken as references to the bank, the holding company and any other bank which is or was in the same group, and
 - (ii) references to securities of the bank taken as including references to securities of the holding company (so that, in particular, sections 65(1)(a)(ii) and 68(1)(a) include references to the earlier transfer of securities issued by the holding company),
 - (g) other provisions of this Act about share transfer orders apply with any necessary modifications,
 - (h) section 214B of the Financial Services and Markets Act 2000 applies (contribution to costs of special resolution regime – inserted by section 171 below), and
 - (i) the reference in section 214B(1)(b) to the bank, and later references in the section, are treated as including references to any other bank which is also a subsidiary undertaking of the holding company (but not to the holding company itself).
- (3) A reference in this Act or another enactment to a share transfer order in respect of securities issued by a bank includes (so far as the context permits) a reference to a share transfer order in respect of securities issued by a holding company.

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- (4) In so far as sections 47 and 60 apply in relation to orders treated as property transfer instruments by virtue of section 45(5)(b) or 46(5)(b) (including those sections as applied by virtue of subsection (2) above) the reference in section 47(1) to the property of a bank includes a reference to the property of a holding company and of any other bank which is or was in the same group.
- (5) Expressions used in this section have the same meaning as in the Companies Act 2006.
- (6) A reference to two banks being in the same group is a reference to their being group undertakings in respect of each other.