



Banking Act 2009

2009 CHAPTER 1

PART 8

GENERAL

259 Statutory instruments

- (1) A statutory instrument under this Act—
 - (a) may make provision that applies generally or only for specified purposes, cases or circumstances,
 - (b) may make different provision for different purposes, cases or circumstances, and
 - (c) may include incidental, consequential or transitional provision.
- (2) No statutory instrument under this Act shall be treated as a hybrid instrument under Standing Orders of either House of Parliament.
- (3) The Table lists the powers to make statutory instruments under this Act and the arrangements for Parliamentary scrutiny in each case (which are subject to subsections (4) to (6)).

<i>Section</i>	<i>Topic</i>	<i>Parliamentary scrutiny</i>
PART 1—Special resolution regime		
2	Meaning of “bank”	Draft affirmative resolution
[^{F1} 2(2A)]	Criteria for determining what are critical functions	Negative resolution]
25	Share transfer orders	Negative resolution
47	Partial transfers	Draft affirmative resolution

Changes to legislation: Banking Act 2009, Section 259 is up to date with all changes known to be in force on or before 16 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

48	Protection of interests	Draft affirmative resolution
[^{F2} 48B(13A)]	Further provision connected with functions under section 48B(10)	Draft affirmative resolution]
[^{F2} 48B(16)]	Criteria for determining what are core business lines	Negative resolution]
[^{F3} 48F(1) and (2)]	[^{F3} Power to amend definition of “excluded liabilities”]	[^{F3} Draft affirmative resolution]
[^{F3} 48G]	[^{F3} Insolvency treatment principles]	[^{F3} Draft affirmative resolution]
[^{F3} 48P]	[^{F3} Safeguarding of certain financial arrangements]	[^{F3} Draft affirmative resolution]
[^{F3} 52A]	[^{F3} Bail-in compensation orders]	[^{F3} Draft affirmative resolution]
55	Independent valuer	Negative resolution
56	Independent valuer: money	Negative resolution
60	[^{F4} Third party compensation: partial property transfers]	Draft affirmative resolution
[^{F3} 60A]	[^{F3} Third party compensation: instruments containing special bail-in provision]	[^{F3} Draft affirmative resolution]
62	Compensation orders	Draft affirmative resolution
69	Continuity obligations: consideration and terms	Negative resolution
^{F5}	^{F5}	^{F5}
...
74	Tax	Draft affirmative resolution (Commons only)
75	Power to change law	Draft affirmative resolution (except for urgent cases)
78	Public funds	Negative resolution (Commons only)
[^{F6} 81D]	[^{F6} Meaning of “banking group company”]	[^{F6} Draft affirmative resolution (except for urgent cases)]

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[^{F7} 83ZY]	[^{F7} Enforcement of share transfer orders]	[^{F7} Negative resolution]
85	Building societies: orders	Negative resolution
86	Building societies: assets	(As for orders under section 90B of the Building Societies Act 1986)
88	Building societies: consequential	Draft affirmative resolution
89	Credit unions	Draft affirmative resolution
^{F8}	^{F8}	^{F8}
...
[^{F9} 89JA(8) (modified section 48B(17B))]	Criteria for determining what are core business lines	Negative resolution]
PART 2–Bank insolvency		
91	Meaning of “bank”	Draft affirmative resolution
122	Application of insolvency law	Draft affirmative resolution
125	Rules	(Expansion of power in section 411 of the Insolvency Act 1986)
130	Building societies	Draft affirmative resolution
131	Credit unions	Draft affirmative resolution
132	Partnerships	(As for orders under section 420 of the Insolvency Act 1986)
133	Scottish partnerships	Negative resolution
135	Consequential provision	Draft affirmative resolution
PART 3–Bank administration		
148	Sharing information	Negative resolution
149	Multiple original transfers	Draft affirmative resolution
152	Transfer from temporary public ownership	Draft affirmative resolution
[^{F10} 152A]	[^{F10} Property transfer from transferred institution]	[^{F10} Draft affirmative resolution]

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156	Application of other law	Draft affirmative resolution
158	Building societies	Draft affirmative resolution
159	Credit unions	Draft affirmative resolution
160	Rules	(Expansion of power in section 411 of the Insolvency Act 1986)
163	Partnerships	(As for orders under section 420 of the Insolvency Act 1986)
164	Scottish partnerships	Negative resolution
168	Consequential provision	Draft affirmative resolution
PART 4—Financial Services Compensation Scheme		
170	Contingency funding	Draft affirmative resolution
F11	F11	F11
...
173	Borrowing from National Loans Fund	Negative resolution
PART 5— F12		
... payment systems		
[^{F13} 182(5C)	Meaning of “digital settlement asset” and “DSA service provider	Draft affirmative resolution]
191	Bank of England directions: immunity	Negative resolution
203	Fees regulations	Negative resolution
204	Information	Negative resolution
[^{F14} 206A	Services forming part of recognised F15	Draft affirmative resolution]
... payment systems		
[^{F16} PART 5A - Wholesale cash distribution		
206M	Bank of England directions: immunity	Negative resolution
206Z	Fees regulations	Negative resolution
206Z4	Information	Negative resolution

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206Z6	Power to disapply regulation and enforcement provisions	Draft affirmative resolution]
PART 6—Banknotes: Scotland and Northern Ireland		
[^{F17} 214A	Issuers of banknotes: Scotland and Northern Ireland	Draft affirmative resolution]
215	Banknote regulations	Draft affirmative resolution
PART 7—Miscellaneous		
230	Financial institution	Negative resolution
[^{F18} 232(6)]	Investment banks: definition	Draft affirmative resolution
[^{F19} 232(7)	Investment banks: definition of investment activity	Negative resolution]
233	Investment banks: insolvency	Draft affirmative resolution
249	[^{F20} PRA or FCA—] functions	Draft affirmative resolution
251	Central banks: assistance to building societies	Draft affirmative resolution
255	Financial collateral arrangements	[^{F21} Draft affirmative resolution]
PART 8—General		
257	Financial assistance	Negative resolution
[^{F22} 258A]	[^{F22} Meaning of “investment firm”]	[^{F22} Draft affirmative resolution (except for urgent cases)]
262	Repeal of Banking (Special Provisions) Act 2008	None
263	Commencement	None

- (4) A power listed in subsection (5) may be exercised without a draft being laid before and approved by resolution of each House of Parliament if—
- the power is being exercised for the first time, and
 - the person exercising it is satisfied that it is necessary to exercise it without laying a draft for approval.
- (5) The powers are those in—
- section 2 (special resolution regime: meaning of “bank”),
 - section 47 (special resolution regime: partial transfers),
 - section 48 (special resolution regime: protection of interests),

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- (d) section 60 (special resolution regime: third party compensation),
 - [^{F23}(da) section 60A (special resolution regime: instruments containing special bail-in provision),]
 - (e) section 88 (special resolution regime: building societies: consequential),
 - (f) section 91 (bank insolvency: meaning of “bank”),
 - (g) section 122 (bank insolvency: application of insolvency law),
 - (h) section 130 (bank insolvency: building societies),
 - (i) section 135 (bank insolvency: consequential provision),
 - (j) section 149 (bank administration: multiple original transfers),
 - (k) section 152 (bank administration: transfer from temporary public ownership),
 - [^{F24}(ka) section 152A (bank administration: property transfer from transferred institution),]
 - (l) section 156 (bank administration: application of other law),
 - (m) section 158 (bank administration: building societies),
 - (n) section 168 (bank administration: consequential provision), ^{F25}...
 - ^{F25}(o)
- (6) Where an instrument is made in reliance on subsection (5)—
- (a) it shall lapse 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 instrument is made,
 - (b) the lapse of an instrument under paragraph (a) does not invalidate anything done under or in reliance on it before its lapse and at a time when neither House has declined to approve it, and
 - (c) the lapse of an instrument under paragraph (a) does not prevent the making of a new one (in new terms).

Textual Amendments

- F1** Words in s. 259(3) Table inserted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 55(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in s. 259(3) Table inserted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 55(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 259(3) Table inserted (31.12.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), **Sch. 2 para. 31(b)**; S.I. 2014/3160, art. 2(1)(b)
- F4** Words in s. 259(3) Table substituted (31.12.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), **Sch. 2 para. 31(a)**; S.I. 2014/3160, art. 2(1)(b)
- F5** Words in s. 259(3) Table omitted (1.1.2015) by virtue of [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **110(2)**
- F6** Words in s. 259(3) Table inserted (5.6.2014 for specified purposes, 1.8.2014 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 100(6)**, 122(3) (with Sch. 20); S.I. 2014/1447, art. 2(c); S.I. 2014/1847, art. 2
- F7** Words in s. 259(3) Table inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **110(3)**
- F8** Words in s. 259 Table omitted (31.12.2023) by virtue of [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(3), **Sch. 11 para. 162(7)**; S.I. 2023/1382, reg. 8(b) (with reg. 14)

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- F9** Words in s. 259(3) Table inserted (31.12.2020) by The Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1394), reg. 1(2), **Sch. 1 para. 55(4)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in s. 259(3) Table inserted (31.12.2014) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 2 para. 31(c)**; S.I. 2014/3160, art. 2(1)(b)
- F11** Words in s. 259(3) Table omitted (8.4.2010) by virtue of Financial Services Act 2010 (c. 28), s. 26(1)(l), **Sch. 2 para. 48(2)**
- F12** Word in s. 259(3) Table omitted (27.6.2017) by virtue of Digital Economy Act 2017 (c. 30), s. 118(2), **Sch. 9 para. 29(a)**
- F13** Words in s. 259(3) Table inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2)(a), **Sch. 6 para. 39**
- F14** Words in s. 259(3) Table inserted (8.4.2010) by Financial Services Act 2010 (c. 28), s. 26(1)(l), **Sch. 2 para. 48(3)**
- F15** Word in s. 259(3) Table omitted (27.6.2017) by virtue of Digital Economy Act 2017 (c. 30), s. 118(2), **Sch. 9 para. 29(b)**
- F16** Words in s. 259(3) Table inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2)(d), **Sch. 9 para. 11**
- F17** Words in s. 259(3) inserted Table (6.7.2016) by Bank of England and Financial Services Act 2016 (c. 14), **ss. 38(6)**, 41(3); S.I. 2016/627, reg. 2(1)(bb)
- F18** Word in s. 259(3) Table substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 17 para. 61(2)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F19** Words in s. 259(3) Table inserted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 17 para. 61(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F20** Words in s. 259(3) Table substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 17 para. 61(4)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F21** Words in s. 259(3) Table substituted (29.4.2021) by Financial Services Act 2021 (c. 22), **ss. 41(6)**, 49(1)(c)
- F22** Words in s. 259(3) Table inserted (5.6.2014 for specified purposes, 1.8.2014 in so far as not already in force) by Financial Services Act 2012 (c. 21), **ss. 101(8)**, 122(3) (with Sch. 20); S.I. 2014/1447, art. 2(f); S.I. 2014/1847, art. 2
- F23** S. 259(5)(da) inserted (31.12.2014) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 2 para. 31(d)**; S.I. 2014/3160, art. 2(1)(b)
- F24** S. 259(5)(ka) inserted (31.12.2014) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(5), **Sch. 2 para. 31(e)**; S.I. 2014/3160, art. 2(1)(b)
- F25** S. 259(5)(o) and word omitted (8.4.2010) by virtue of Financial Services Act 2010 (c. 28), s. 26(1)(l), **Sch. 2 para. 48(4)**

Commencement Information

- I1** S. 259 in force at 21.2.2009 by S.I. 2009/296, art. 3, **Sch. para. 14**

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(8A)(8B) inserted by [2012 c. 21 s. 96\(3\)](#)
- s. 8(2)(d) and word inserted by [2012 c. 21 s. 96\(4\)\(b\)](#)