

SCHEDULES

SCHEDULE 2

BAIL-IN STABILISATION OPTION

PART 1

AMENDMENTS OF BANKING ACT 2009

State aid

11 After section 256 insert—

“State aid

256A State aid

- (1) This section applies where—
 - (a) the Treasury are of the opinion that anything done, or proposed to be done, in connection with the exercise in relation to an institution of one or more of the stabilisation powers may constitute the granting of aid to which any of the provisions of Article 107 or 108 of the Treaty on the Functioning of the European Union applies (“State aid”), and
 - (b) section 145A (power to direct bank administrator) does not apply.
- (2) The Treasury may, in writing, direct any bail-in administrator, or any director of the institution, to take specified action to enable the United Kingdom to pursue any of the purposes specified in subsection (3) of section 145A (read with subsection (9) of that section).
- (3) Before giving a direction under this section the Treasury must consult the person to whom the direction is to be given.
- (4) The person must comply with the direction within the period of time specified in the direction, or, if no period of time is specified, as soon as is reasonably practicable.
- (5) A direction under this section is enforceable on an application made by the Treasury, by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.
- (6) A direction under this section may specify circumstances in which the person given the direction is immune from liability in damages.
- (7) Immunity by virtue of subsection (6) does not extend to action—
 - (a) in bad faith, or

Status: This is the original version (as it was originally enacted).

- (b) in contravention of section 6(1) of the Human Rights Act 1998.
- (8) Where a direction under this section is given to a director of the institution, the director is not to be regarded as failing to comply with any duty owed to any person (for example, a shareholder, creditor or employee of the institution) by virtue of any action in compliance with the direction.”