
STATUTORY INSTRUMENTS

2009 No. 296 (C. 14)

BANKS AND BANKING

The Banking Act 2009 (Commencement No. 1) Order 2009

Made - - - - 16th February 2009

In exercise of the powers conferred by section 263(1) and (3) of the Banking Act 2009⁽¹⁾, the Treasury make the following Order:

Citation and interpretation

- 1.—(1) This Order may be cited as the Banking Act 2009 (Commencement No. 1) Order 2009.
- (2) In this Order, “the Act” means the Banking Act 2009.

Provisions conferring power to make secondary legislation etc

2. To the extent that the provisions in the Schedule to this Order confer or relate to the power to make subordinate legislation or codes of practice, those provisions come into force on 17th February 2009 for the purpose of enabling subordinate legislation or codes of practice to be made; but no such subordinate legislation or codes of practice may come into force before 21st February 2009.

Provisions of the Act coming into force on 21st February 2009

3. The provisions of the Act listed in the Schedule to this Order come into force on 21st February 2009.

16th February 2009

Dave Watts
Frank Roy
Two of the Lords Commissioners of Her
Majesty’s Treasury

SCHEDULE

1. Sections 1 to 89 (Part 1 of the Act: the special resolution regime)
2. Sections 90 to 135 (Part 2 of the Act: bank insolvency)
3. Sections 136 to 168 (Part 3 of the Act: bank administration)
4. Sections 169, 171, and 173 to 180 (provisions relating to the Financial Services Compensation Scheme)
5. Sections 228 to 231 (Treasury support for banks)
6. Sections 232 to 236 (investment banks)
7. Section 237 (Banking (Special Provisions) Act 2008, compensation: valuer)
8. Sections 244 to 247 (provisions relating to the Bank of England)
9. Sections 248 to 250 (provisions relating to the Financial Services Authority)
10. Section 251 (financial assistance to building societies)
11. Sections 252 and 253 (registration of charges and registration of charges: Scotland)
12. Section 257 (meaning of “financial assistance”)
13. Section 258 (meaning of “enactment”)
14. Section 259 (statutory instruments)
15. Section 260 (money)
16. Section 261(index of defined terms)
17. Section 262 (repeal)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 21st February 2009 various provisions of the Banking Act 2009 (“the Act”).

Regulation 2 enables secondary legislation and codes of practice to be made under the Act on or after 17th February 2009, although any such secondary legislation or code of practice may not come into force before 21st February 2009.

Regulation 3 and the Schedule to the Order specify the provisions of the Act that are brought into force on 21st February 2009.

Part 1 of the Act (sections 1 to 89) makes provision for the special resolution regime (“the regime”). The regime confers powers on the Bank of England and the Treasury to resolve, in certain cases, a bank (defined in section 2 of the Act) that meets with the conditions in section 7 of the Act (general conditions).

Part 2 of the Act (sections 90 to 135) makes provision for the bank insolvency procedure. The bank insolvency procedure creates a modified insolvency procedure for all UK banks that have depositors eligible for compensation under the Financial Services Compensation Scheme (established under Part 15 of the Financial Services and Markets Act 2000 (c.8)).

Part 3 of the Act (sections 136 to 168) makes provision for the bank administration procedure. This can be used where part of the business of a bank has been sold to a commercial purchaser in accordance with section 11 of the Act (private sector purchaser) or is transferred to a bridge bank in accordance with section 12 of the Act (bridge bank)(2).

Sections 169, 171, and 173 to 180 make a number of amendments in connection with the Financial Services Compensation Scheme.

Sections 228 to 231 make provision in relation to the provision of financial support to banks and financial institutions by the Treasury.

Sections 232 to 236 make provision enabling the Treasury to make regulations (a) modifying the law of insolvency in its application to investment banks and (b) establishing a new procedure for the insolvency of investment banks.

Section 237 relates to the power conferred on the Treasury under section 9 (supplementary provision about compensation schemes etc) of the Banking (Special Provisions) Act 2008 (c.2) to make provision for the appointment of a valuer.

Sections 244 to 247 make provision relating to the Bank of England.

Sections 248 to 250 make provision relating to the Financial Services Authority.

Section 251 confers a power on the Treasury to modify the Building Societies Act 1986 (c.53) for the purpose of facilitating, or in connection with, the provision of financial assistance to building societies.

Sections 252 and 253 disapply the statutory requirements in Part 25 of the Companies Act 2006 (c.46) (registration of charges) and the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp.3) to register charges in certain cases.

Section 257 sets out the meaning of “financial assistance” for the purposes of the Act.

Section 258 sets out the meaning of “enactment” for the purposes of the Act.

Section 259 makes provision in relation to statutory instruments made under powers conferred by provisions of the Act.

Section 260 provides that expenditure of the Treasury under, by virtue of or in connection with a provision of the Act shall be paid out of money provided by Parliament.

Section 261 sets out an index of defined terms.

Section 262 confers a power on the Treasury to repeal, by order, the Banking (Special Provisions) Act 2008.

(2) Part 3 may also be applied by regulations made by the Treasury in accordance with section 152 (property transfer from temporary public ownership) and cases where there are multiple transferees (section 149 of the Act (general modification of this Part)).