
DRAFT STATUTORY INSTRUMENTS

2014 No.

**The Banking Act 2009 (Restriction of
Special Bail-in Provision, etc.) Order 2014**

Remedy

6.—(1) This article applies where any person (“the person”) considers that an instrument to which this Order applies has been made in contravention of any provision of this Order and that as a result the liabilities owed to the person have been affected by the making of special bail-in provision.

(2) The person may give notice to the Bank of the alleged contravention of this Order.

(3) The notice under paragraph (2) (“the notice”) must—

- (a) be given within a period of 60 days beginning with the day on which the instrument was made;
- (b) be in writing;
- (c) specify the provision of this Order which is alleged to have been contravened and the manner in which that contravention is alleged to have occurred; and
- (d) identify the liability to which the alleged contravention relates.

(4) The person shall also, on request, provide such additional information as the Bank may reasonably require.

(5) Within the relevant period and acting as soon as reasonably practicable, the Bank must—

- (a) if it does not agree that a provision of this Order has been contravened in the manner specified in the notice, take the steps specified in paragraph (6);
- (b) if it agrees that a provision of this Order has been contravened in the manner specified in the notice, take the steps specified in—
 - (i) paragraph (7), where special bail-in provision is not made in conjunction with the bridge bank stabilisation option, or
 - (ii) paragraph (8), where special bail-in provision is made in conjunction with the bridge bank stabilisation option⁽¹⁾.

(6) The steps are to give reasons to the person as to why the Bank considers that no provision of this Order has been contravened in the manner specified in the notice.

(7) The steps are to remedy the contravention—

- (a) where practicable—
 - (i) by requiring the relevant banking institution to issue securities, or
 - (ii) by transferring securities issued by the relevant banking institution, which the Bank estimates to have a value equal to the relevant sum, to the person, or
- (b) otherwise, by requiring the relevant banking institution to transfer the relevant sum to the person;

⁽¹⁾ Defined in section 12 of the Act, amended by article 18 of the Bank Recovery and Resolution Order 2014.

whether by exercising a power under Part 1 of the Act or otherwise.

(8) The steps are to remedy the contravention by either—

- (a) requiring the relevant banking institution or bridge bank to issue securities which the Bank estimates to have a value equal to the relevant sum to the person,
- (b) transferring securities issued by the relevant banking institution or bridge bank which the Bank estimates to have a value equal to the relevant sum to the person, or
- (c) requiring the relevant banking institution or bridge bank to transfer the relevant sum to the relevant person;

whether by exercising a power under Part 1 of the Act or otherwise.

(9) In this article—

“relevant period” has the meaning given in article 7;

“relevant sum” means such sum as the Bank considers necessary to put the person in the position the person would have been in had the contravention not occurred.

(10) In paragraph (5)(b)(ii), special bail-in provision is made in conjunction with the bridge bank stabilisation option when special bail-in provision is made in reliance on section 44B of the Act⁽²⁾ in—

- (a) a property transfer instrument under section 12(2) of the Act, or
- (b) a supplemental property transfer instrument in relation to which the original instrument (as defined in section 42(1)⁽³⁾ of the Act) is a property transfer instrument under section 12(2) of the Act;

and the reference in paragraph (5)(b)(i) to special bail-in provision not being made in conjunction with the bridge bank stabilisation option is to be construed accordingly.

(2) Section 44B was inserted by the Financial Services (Banking Reform) Act 2013 (c. 33), Schedule 2, paragraph 5(3), and is amended by article 46 of the Bank Recovery and Resolution Order 2014.

(3) Section 42 was amended by the Financial Services (Banking Reform) Act 2013, Schedule 2, paragraph 5(2), and is amended by article 42 of the Bank Recovery and Resolution Order 2014.