



# Banking (Special Provisions) Act 2008

## 2008 CHAPTER 2

### *Transfer of securities*

#### **3      Transfer of securities**

- (1) The Treasury may, in relation to all or any securities of a specified description that have been issued by an authorised UK deposit-taker, by order make provision for or in connection with, or in consequence of, the transfer of the securities to any of the following—
  - (a) the Bank of England;
  - (b) a nominee of the Treasury;
  - (c) a company wholly owned by the Bank of England or the Treasury;
  - (d) any body corporate not within paragraph (c).
- (2) Schedule 1 specifies particular kinds of provisions that may be included in an order under this section.
- (3) Where an order providing for the transfer of any securities has been made under this section, the power to make an order under this section may be subsequently exercised so as to make provision in connection with, or in consequence of, the transfer (including provision of a kind specified in Schedule 1) even though the order does not itself provide for the transfer of any securities.
- (4) Where an order under this section or section 6 (“the initial order”) has been made in relation to an authorised UK deposit-taker, the power to make an order under this section may be subsequently exercised in relation to that deposit-taker whether or not any transfer of securities provided for by the order is to the person to whom any transfer was made by or under the initial order.
- (5) For the purposes of this section any provision made by an order under this section in relation to any transaction or event taking place while securities transferred by such an order are held by a person within subsection (1)(a), (b) or (c) is to be regarded as provision made in consequence of the transfer.

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*Changes to legislation: There are currently no known outstanding effects for the Banking (Special Provisions) Act 2008, Cross Heading: Transfer of securities. (See end of Document for details)*

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#### **4 Extinguishment of subscription rights**

- (1) This section applies where the Treasury make, or have made, an order under section 3 providing for the transfer of securities issued by an authorised UK deposit-taker.
- (2) The Treasury may by order make provision for or in connection with, or in consequence of, the extinguishment of rights of any specified description to subscribe for, or otherwise acquire, securities of—
  - (a) the deposit-taker, or
  - (b) any of its subsidiary undertakings.
- (3) Subsection (2) applies whether the rights have been granted by the deposit-taker or otherwise.
- (4) Where an order providing for the extinguishment of any rights has been made under this section, the power to make an order under this section may be subsequently exercised so as to make provision in connection with, or in consequence of, the extinguishment of those rights even though the order does not itself provide for any rights to be extinguished.

#### **5 Compensation etc. for securities transferred etc.**

- (1) The Treasury must by order—
  - (a) in relation to an order under section 3 that transfers securities only to the public sector, make a scheme for determining the amount of any compensation payable by the Treasury to persons who held the securities immediately before they were so transferred;
  - (b) in relation to an order under section 3 that transfers securities only to a private sector body, make provision for determining the amount of any consideration payable by the body to persons who held the securities immediately before they were so transferred;
  - (c) in relation to an order under section 3 that transfers securities both to the public sector and a private sector body, make provision for determining—
    - (i) the amount of any compensation payable by the Treasury, and
    - (ii) the amount of any consideration payable by the private sector body concerned,
 to persons who held the securities immediately before they were so transferred.
- (2) The Treasury must by order make provision for determining the amount of any compensation payable to persons whose rights are extinguished by virtue of an order under section 4 (a “section 4 order”) and—
  - (a) in any case where the section 4 order is made in consequence of an order under section 3 that transfers securities only to the public sector, the order must provide for any compensation to be payable by the Treasury;
  - (b) in any case where the section 4 order is made in consequence of an order under section 3 that transfers securities only to a private sector body, the order must provide for any compensation to be payable by the private sector body concerned;
  - (c) in any case where the section 4 order is made in consequence of an order under section 3 that transfers securities both to the public sector and a private sector body, the order must make provision for determining the amount of any

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compensation payable by the Treasury or the private sector body concerned (or both).

- (3) An order under this section may also make provision for extending provisions of the order, in any specified circumstances, to persons otherwise affected by any provision made in an order under section 3 or 4.
- (4) In determining the amount of any compensation payable by the Treasury by virtue of any provision in an order under this section, it must be assumed—
  - (a) that all financial assistance provided by the Bank of England or the Treasury to the deposit-taker in question has been withdrawn (whether by the making of a demand for repayment or otherwise), and
  - (b) that no financial assistance would in future be provided by the Bank of England or the Treasury to the deposit-taker in question (apart from ordinary market assistance offered by the Bank of England subject to its usual terms).
- (5) For the purposes of subsection (4)—
  - (a) the references to the provision of financial assistance by the Treasury to the deposit-taker include any case where the Chancellor of the Exchequer announces that the Treasury (whether acting alone or with the Bank of England) would, if necessary, put in place relevant guarantee arrangements in relation to the deposit-taker (as well as any case where any such arrangements are put in place, whether or not following such an announcement);
  - (b) “ordinary market assistance” means assistance provided as part of the Bank’s standing facilities in the sterling money markets or as part of the Bank’s open market operations in those markets.
- (6) It is immaterial whether the announcement mentioned in subsection (5)(a) is made before or after the passing of this Act.
- (7) In this section—
  - (a) any reference to any transfer of securities to the public sector is a reference to the transfer of any securities to any person within paragraphs (a) to (c) of subsection (1) of section 3;
  - (b) any reference to any transfer of securities to a private sector body is a reference to the transfer of any securities to any body corporate within paragraph (d) of that subsection.
- (8) An order under subsection (1) or (2) must be made within the period of 3 months beginning with—
  - (a) the day on which the order under section 3 is made (in the case of an order under subsection (1)), or
  - (b) the day on which the order under section 4 is made (in the case of an order under subsection (2)).
- (9) But nothing in subsection (8) prevents the making, at any time after the end of that period, of a second or subsequent order under this section in relation to the order under section 3 or 4.

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