



Financial Services Act 2012

2012 CHAPTER 21

PART 8

AMENDMENTS OF BANKING ACT 2009

Special resolution regime and bank administration

103 State aid

After section 145 of the Banking Act 2009 insert—

“145A Power to direct bank administrator

- (1) This section applies where—
 - (a) a bank administration order has been made, and
 - (b) the Treasury are of the opinion that anything done, or proposed to be done, in connection with the exercise 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 TFEU applies (“State aid”).
- (2) The Treasury may, in writing, direct the bank administrator to take specified action to enable the United Kingdom to fulfil any of the purposes specified in subsection (3).
- (3) The purposes are—
 - (a) to inform the European Commission that State aid has been, may have been, or may be, given;
 - (b) to obtain a decision from the Commission whether State aid—
 - (i) has been given, or
 - (ii) would be given, if the action proposed was taken;
 - (c) to apply for approval that such aid is, or would be, compatible with the internal market, within the meaning of Article 107 of TFEU;

Status: Point in time view as at 01/04/2013. This version of this provision has been superseded.

Changes to legislation: Financial Services Act 2012, Section 103 is up to date with all changes known to be in force on or before 03 June 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)

- (d) to comply with any requirements to enable an investigation under Article 108 of TFEU to be carried out;
 - (e) to comply with any undertaking given to the European Commission in connection with the application for approval referred to in paragraph (c);
 - (f) to comply with any requests from the Commission relating to the application for approval, including the provision of information;
 - (g) to comply with any undertakings given to the Commission, or conditions imposed by the Commission, where approval has been given.
- (4) Before giving a direction under this section the Treasury must consult the bank administrator.
- (5) The bank administrator 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 reasonably practicable.
- (6) 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.
- (7) A direction may specify circumstances in which the bank administrator is immune from liability in damages.
- (8) Immunity by virtue of subsection (7) does not extend to action—
- (a) in bad faith, or
 - (b) in contravention of section 6(1) of the Human Rights Act 1998.
- (9) If the United Kingdom has made, or proposes to make, an application to the Council of the European Union under Article 108 of TFEU, references in subsection (3) to the Commission are to be read as including references to the Council.
- (10) In this section “TFEU” means the Treaty on the Functioning of the European Union.”

Commencement Information

II S. 103 in force at 1.4.2013 by S.I. 2013/423, art. 3, Sch.

Status:

Point in time view as at 01/04/2013. This version of this provision has been superseded.

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