

Status: Point in time view as at 31/12/2014.

Changes to legislation: There are currently no known outstanding effects for the Financial Services (Banking Reform) Act 2013, Cross Heading: Other amendments of the Act. (See end of Document for details)

SCHEDULES

SCHEDULE 2

BAIL-IN STABILISATION OPTION

PART 1

AMENDMENTS OF BANKING ACT 2009

Other amendments of the Act

- 12 (1) Section 1 (overview) is amended as follows.
- (2) In subsection (2)(a), for “three” substitute “ four ”.
- (3) For subsection (3) substitute—
- “ (3) The four “stabilisation options” are—
- (a) transfer to a private sector purchaser (section 11),
 - (b) transfer to a bridge bank (section 12),
 - (c) the bail-in option (section 12A), and
 - (d) transfer to temporary public ownership (section 13).”
- (4) In subsection (4)—
- (a) for “three” substitute “ four ”;
 - (b) before paragraph (a) insert—
“ (za) the resolution instrument powers (sections 12A(2) and 48U to 48W), ”;
 - (c) in paragraph (b), after “33” insert “ , 41A ”.

Commencement Information

11 Sch. 2 para. 12 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

- 13 In section 13 (temporary public ownership), in subsection (1), for “third” substitute “ fourth ”.

Commencement Information

12 Sch. 2 para. 13 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

- 14 In section 17 (share transfers: effect)—
- (a) in subsection (1), after “order” insert, “ or by a resolution instrument ”;
 - (b) in subsection (5), after “order” insert “ or a resolution instrument ”;
 - (c) in subsection (6), after “order” insert “ or a resolution instrument ”.

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Commencement Information

I3 Sch. 2 para. 14 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

15 In section 18 (share transfers: continuity), after subsection (5) insert—

“(6) This section applies to a resolution instrument as it applies to a share transfer instrument; and in relation to a resolution instrument references in this section to a “transfer” are to a transfer of securities (whether made by that or another resolution instrument) and “transferor” and “transferee” are to be read accordingly.”

Commencement Information

I4 Sch. 2 para. 15 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

16 In section 44 (reverse property transfer)—

- (a) in subsection (2), after “more” insert “ bridge bank ”;
- (b) in subsection (3), after “more” insert “ bridge bank ”;
- (c) in subsection (4), for “A reverse” substitute “ A bridge bank reverse ”;
- (d) in subsection (4A)—
 - (i) after “make a” insert “ bridge bank ”, and
 - (ii) in paragraph (b), for “the reverse” substitute “ the bridge bank reverse ”;
- (e) in subsection (5), for “a reverse” substitute “ a bridge bank reverse ”;
- (f) in subsection (6), for “a reverse” substitute “ a bridge bank reverse ”;
- (g) in subsection (7), for “a reverse” substitute “ a bridge bank reverse ”;
- (h) in the heading, for “Reverse” substitute “ **Bridge bank: reverse** ”.

Commencement Information

I5 Sch. 2 para. 16 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

17 In section 63 (general continuity obligation: property transfers), in subsection (1) (a), for “or 12(2)” substitute “ , 12(2) or 41A(2) ”.

Commencement Information

I6 Sch. 2 para. 17 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

18 In section 66 (general continuity obligation: share transfers)—

- (a) in subsection (1)(a), after “13(2)” insert “ , or which falls within subsection (1A) ”;
- (b) in subsection (1)(d)(i), after “11(2)(a)” insert “ , or in a case falling within subsection (1A) ”;
- (c) after subsection (1) insert—

“(1A) A bank falls within this subsection if a resolution instrument (or supplemental resolution instrument) has changed the ownership of the bank (wholly or partly) by providing for the transfer,

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cancellation or conversion from one form or class to another of securities issued by the bank (and the reference in subsection (1) (b) to “the transfer” includes such a cancellation or conversion).”

Commencement Information

I7 Sch. 2 para. 18 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

- 19 In section 67 (special continuity obligation: share transfers), in subsection (4)(c), after “order” insert “ or resolution instrument ”.

Commencement Information

I8 Sch. 2 para. 19 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

- 20 In section 68 (continuity obligations: onward share transfers), in subsection (1) (a), after “transferred by” insert “ a resolution instrument under section 12A(2) or supplemental resolution instrument under section 48U(2) or a ”.

Commencement Information

I9 Sch. 2 para. 20 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

- 21 In section 71 (pensions), in subsection (1)—
- (a) omit the “and” at the end of paragraph (b);
 - (b) after paragraph (c) insert “, and
 - (d) resolution instruments.”

Commencement Information

I10 Sch. 2 para. 21 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

- 22 In section 72 (enforcement), in subsection (1)—
- (a) omit the “or” at the end of paragraph (b);
 - (b) after paragraph (c) insert “, or
 - (d) a resolution instrument.”

Commencement Information

I11 Sch. 2 para. 22 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

- 23 In section 73 (disputes), in subsection (1)—
- (a) omit the “and” at the end of paragraph (b);
 - (b) after paragraph (c) insert “, and
 - (d) resolution instruments.”

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I12 Sch. 2 para. 23 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

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24 In section 74 (tax), in subsection (6), for “or 45” substitute “ , 45, 48U or 48V ”.

Commencement Information

I13 Sch. 2 para. 24 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

25 After section 80 insert—

“80A Transfer for bail-in purposes: report

- (1) This section applies where the Bank of England makes one or more resolution instruments under section 12A(2) in respect of a bank.
- (2) The Bank of England must, on request by the Treasury, report to the Chancellor of the Exchequer about—
 - (a) the exercise of the power to make a resolution instrument under section 12A(2),
 - (b) the activities of the bank, and
 - (c) any other matters in relation to the bank that the Treasury may specify.
- (3) In relation to the matters in subsection (2)(a) and (b), the report must comply with any requirements that the Treasury may specify.
- (4) The Chancellor of the Exchequer must lay a copy of each report under subsection (2) before Parliament.”

Commencement Information

I14 Sch. 2 para. 25 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

26 In section 81A (accounting information to be included in reports under sections 80 and 81)—

- (a) in subsection (1), for “or 81” substitute “ , 80A(2)(b) or 81 ”;
- (b) in the heading, for “and 81” substitute “ , 80A(2)(b) and 81 ”.

Commencement Information

I15 Sch. 2 para. 26 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

27 In section 85 (temporary public ownership), in subsection (1), for “third” substitute “ fourth ”.

Commencement Information

I16 Sch. 2 para. 27 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

28 In section 136 (overview), in the Table in subsection (3), for “152” substitute “ 152A ”.

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I17 Sch. 2 para. 28 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

29 After section 152 insert—

“152A Property transfer from transferred institution

- (1) This section applies where the Bank of England—
 - (a) makes a resolution instrument that transfers securities issued by a bank (or a bank's parent undertaking), in accordance with section 12A(2), and
 - (b) later makes a property transfer instrument from the bank or from another bank which is or was in the same group as the bank, in accordance with section 41A(2).
- (2) This Part applies to the transferor under the property transfer instrument made in accordance with section 41A(2) as to the transferor under a property transfer instrument made in accordance with section 12(2).
- (3) For that purpose this Part applies with any modifications specified by the Treasury in regulations; and any regulations—
 - (a) are to be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

Commencement Information

I18 Sch. 2 para. 29 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

30 In section 220 (insolvency etc), after subsection (4) insert—

“(4A) The fact that ownership of an authorised bank is transferred or otherwise changed as a result of a resolution instrument (or an instrument treated as a resolution instrument) does not itself prevent the bank from relying on section 213.”

Commencement Information

I19 Sch. 2 para. 30 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

31 In section 259 (statutory instruments)—

- (a) in the Table in subsection (3), in Part 1, in the entry relating to section 60 for “Third party compensation” substitute “ Third party compensation: partial property transfers ”;
- (b) in the Table in subsection (3), in Part 1, at the appropriate places insert—

“48F(1) and (2)	Power to amend definition of Draft “excluded liabilities”	affirmative resolution
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48G	Insolvency treatment principles	Draft resolution	affirmative
48P	Safeguarding of certain financial arrangements	Draft resolution	affirmative
52A	Bail-in compensation orders	Draft resolution””	affirmative
““60A	Third party compensation: instruments containing special bail-in provision	Draft resolution”;	affirmative
(c) in the Table in subsection (3), in Part 3, at the appropriate place insert—			
“152A	Property transfer from transferred institution	Draft resolution”;	affirmative
(d) in subsection (5), after paragraph (d) insert— “(da) section 60A (special resolution regime: instruments containing special bail-in provision),”;			
(e) in subsection (5), after paragraph (k) insert— “(ka) section 152A (bank administration: property transfer from transferred institution),”.			

Commencement Information

I20 Sch. 2 para. 31 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

32 In section 261 (index of defined terms), in the Table, at the appropriate places insert—

“Bail-in compensation 49””
order

““Resolution instrument 12A””

““Special bail-in 48B””.
provision

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I21 Sch. 2 para. 32 in force at 31.12.2014 by S.I. 2014/3160, art. 2(1)(b)

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