
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Bank Recovery and Resolution Order 2014

Resolution administrator

70. After section 62A insert—

“Resolution administrator

Resolution administrator

62B.—(1) The Bank of England may appoint an individual or body corporate as a resolution administrator.

(2) The power under subsection (1) may be exercised—

- (a) by a separate instrument of appointment under this section, or
- (b) by way of provision in a mandatory reduction instrument, a share transfer instrument, a property transfer instrument or a resolution instrument.

(3) In this section and sections 62C to 62E—

“appointment instrument” means an instrument under subsection (2)(a);

“Part 1 instrument” means an instrument of a kind mentioned in subsection (2)(b).

(4) A resolution administrator is appointed—

- (a) to hold any securities that may be transferred or issued to that person in the capacity of resolution administrator, and
- (b) to perform any other functions that may be conferred under any provision of this Part.

(5) The Bank of England may appoint more than one resolution administrator to perform functions in relation to a bank (but no more than one of them may at any one time be authorised to hold securities as mentioned in subsection (4)(a)).

(6) Securities held by a resolution administrator (in that capacity, and whether as a result of a Part 1 instrument or otherwise) are to be held in accordance with the terms of a Part 1 instrument that transfers those, or other, securities to the resolution administrator.

(7) For example, the following provision may be made by virtue of subsection (6)—

- (a) provision that specified rights of a resolution administrator with respect to all or any of the securities are to be exercisable only as directed by the Bank of England;
- (b) provision specifying rights or obligations that the resolution administrator is, or is not, to have in relation to some or all of the securities.

(8) A resolution administrator must—

- (a) in accordance with the Part 1 instrument or the appointment instrument, take all measures necessary to promote the special resolution objectives, and
- (b) have regard, in performing any functions of the office, to any other objectives that may be specified in a Part 1 instrument or the appointment instrument.

(9) Where one or more objectives are specified in accordance with subsection (8), the objectives are to be taken to have equal status with each other, unless the contrary is stated in the Part 1 instrument or the appointment instrument.

(10) The following provisions apply in relation to an appointment instrument as they apply in relation to a resolution instrument—

- (a) section 48S(2) and (3) (power to make incidental, consequential provision etc)(1);
- (b) section 48T (procedure).

Resolution administrator: further functions

62C.—(1) An appointment instrument or a Part 1 instrument may—

- (a) authorise a resolution administrator to manage the bank's business (or confer on a resolution administrator any other power with respect to the management of the bank's business);
- (b) authorise a resolution administrator to exercise any other powers of the bank;
- (c) confer on a resolution administrator any other power the Bank of England may consider appropriate;
- (d) provide that the exercise of any power conferred by the instrument in accordance with this section is to be subject to conditions specified in the instrument.

(2) An appointment instrument or a Part 1 instrument may require a resolution administrator to make reports to the Bank of England—

- (a) on any matter specified in the instrument, and
- (b) at the times or intervals specified in the instrument.

(3) If an instrument specifies a matter in accordance with subsection (2)(a), it may provide for further requirements as to the contents of the report on that matter to be specified in an agreement between the Bank of England and the resolution administrator.

(4) An appointment instrument or a Part 1 instrument may—

- (a) require a resolution administrator to consult specified persons before exercising specified functions (and may specify particular matters on which the specified person must be consulted);
- (b) provide that a resolution administrator is not to exercise specified functions without the consent of a specified person.

Resolution administrator: supplementary

62D.—(1) A resolution administrator may do anything necessary or desirable for the purposes of or in connection with the performance of the functions of the office.

(2) A resolution administrator is not a servant or agent of the Crown (and, in particular, is not a civil servant).

(3) Where a resolution administrator is appointed under this Part, the Bank of England—

- (a) must make provision in the appointment instrument or a Part 1 instrument for the resignation and replacement of the resolution administrator;
- (b) may remove the resolution administrator from office only (i) on the ground of incapacity or misconduct, or (ii) on the ground that there is no further need for a person to perform the functions conferred on the resolution administrator.

(1) Sections 48B to 48W were inserted by paragraph 4 of Schedule 2 to the Financial Services (Banking Reform) Act 2013 (c.33).

Resolution administrator: money

62E.—(1) An appointment instrument or a Part 1 instrument may provide for the payment of remuneration and allowances to a resolution administrator.

(2) Provision made under subsection (1) may provide that the amounts are—

(a) to be paid by the Bank of England, or

(b) to be determined by the Bank of England and paid by the bank.

(3) A resolution administrator is not liable for damages in respect of anything done in good faith for the purposes of or in connection with the functions of the office (subject to section 8 of the Human Rights Act 1998⁽²⁾).

(2) 1998 c.42.