
DRAFT STATUTORY INSTRUMENTS

2018 No.

**The Bank Recovery and Resolution and Miscellaneous
Provisions (Amendment) (EU Exit) Regulations 2018**

Citation and commencement

1.—(1) These Regulations may be cited as the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018.

(2) Subject to paragraph (3), these Regulations come into force on exit day.

(3) The following provisions come into force on the day after the day on which these Regulations are made—

- (a) this regulation,
- (b) in Schedule 1, paragraphs 3(2), 7(2)(b) and 15(3),
- (c) in Schedule 2, paragraph 3(b)(ii),
- (d) in Schedule 3, paragraph 1(29) and
- (e) in Schedule 4, paragraphs 2(2)(c), 4(2)(b) and 7(3).

Amendments of the Banking Act 2009

2. Schedule 1 amends the Banking Act 2009(1).

Amendments of other primary legislation

3. Schedule 2 amends—

- (a) the Insolvency Act 1986(2) and
- (b) the Financial Services (Banking Reform) Act 2013(3).

Amendments of the Bank Recovery and Resolution (No.2) Order 2014

4. Schedule 3 amends the Bank Recovery and Resolution (No.2) Order 2014(4).

Amendments of other secondary legislation

5. Schedule 4 amends—

- (a) the Banking Act 2009 (Third Party Compensation Arrangements for Partial Property Transfers) Regulations 2009(5),
- (b) the Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009(6),

(1) 2009 c.1. Relevant amendments were made by S.I. 2014/3329 and 2016/1239, the Financial Services Act 2012 c.21 and the Financial Services (Banking Reform) Act 2013 c.33.

(2) 1986 c.45. The relevant amendments are mentioned in the footnotes to Schedule 2 to these Regulations.

(3) 2013 c.33.

(4) S.I. 2014/3348, amended by S.I. 2016/1239 and 2017/80.

(5) S.I. 2009/319, amended by S.I. 2014/1830, 3329 and 2016/1239.

(6) S.I. 2009/322. Relevant amendments were made by S.I. 2009/1826, 2011/1043, 2013/3115 and 2016/1239.

- (c) the Banking Act 2009 (Restriction of Partial Property Transfers) (Recognised Central Counterparties) Order 2014(7),
- (d) the Banking Act 2009 (Banking Group Companies) Order 2014(8),
- (e) the Bank Recovery and Resolution Order 2014(9),
- (f) the Banking Act 2009 (Mandatory Compensation Arrangements Following Bail-in) Regulations 2014(10),
- (g) the Banking Act 2009 (Restriction of Special Bail-in Provision, etc.) Order 2014(11),
- (h) the Building Societies (Bail-in) Order 2014(12) and
- (i) the Bank Recovery and Resolution Order 2016(13).

Revocation and amendments of retained direct EU legislation

- 6. The following instruments are revoked—
 - (a) Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing [Directive 2014/59/EU](#) of the European Parliament and of the Council with regard to *ex ante* contributions to resolution financing arrangements,
 - (b) Commission Delegated Regulation (EU) 2016/1434 of 14 December 2015 correcting Delegated Regulation (EU) 2015/63 supplementing [Directive 2014/59/EU](#) of the European Parliament and of the Council with regard to *ex ante* contributions to resolution financing arrangements and
 - (c) Commission Delegated Regulation (EU) 2017/867 of 7 February 2017 on classes of arrangements to be protected in a partial property transfer under Article 76 of [Directive 2014/59/EU](#) of the European Parliament and of the Council.
- 7. The following instruments are amended in accordance with Schedule 5—
 - (a) Commission Delegated Regulation (EU) 2016/778 of 2 February 2016 supplementing [Directive 2014/59/EU](#) of the European Parliament and of the Council with regard to the circumstances and conditions under which the payment of extraordinary *ex post* contributions may be partially or entirely deferred, and on the criteria for the determination of the activities, services and operations with regard to critical functions, and for the determination of the business lines and associated services with regard to core business lines and
 - (b) Commission Delegated Regulation (EU) 2016/860 of 4 February 2016 specifying further the circumstances where exclusion from the application of write-down or conversion powers is necessary under Article 44(3) of [Directive 2014/59/EU](#) of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms.

Transitional provisions: pre-exit EEA resolution action

8.—(1) Section 89H of the Banking Act 2009 (recognition of third-country resolution actions) does not apply in relation to any of the following where taken before exit day under the law of an EEA State other than the United Kingdom—

-
- (7) [S.I. 2014/1828](#).
 - (8) [S.I. 2014/1831](#).
 - (9) [S.I. 2014/3329](#).
 - (10) [S.I. 2014/3330](#); amended by [S.I. 2014/3344](#) and [2016/1239](#).
 - (11) [S.I. 2014/3350](#); amended by [S.I. 2016/1239](#).
 - (12) [S.I. 2014/3344](#).
 - (13) [S.I. 2016/1239](#).

- (a) the application of a resolution tool within the meaning of Article 2.1(19) of the recovery and resolution directive;
- (b) the exercise of a resolution power within the meaning of Article 2.1(20) of the recovery and resolution directive;
- (c) any other measure to which Article 66 of the recovery and resolution directive applied immediately before exit day.

(2) In paragraph (1) “recovery and resolution directive” has the meaning given in section 3(1) of the Banking Act 2009.

(3) Paragraph (1) is without prejudice to the provision made by paragraph 37 of Schedule 8 to the European Union (Withdrawal) Act 2018.

Date

Name
Name
Two of the Lords Commissioners of Her
Majesty’s Treasury