
DRAFT STATUTORY INSTRUMENTS

2020 No.

FINANCIAL SERVICES AND MARKETS

**The Bank Recovery and Resolution
(Amendment) (EU Exit) Regulations 2020**

*Made - - - - - ***
Coming into force in accordance with
regulation 1(2) to (4)*

**THE BANK RECOVERY AND RESOLUTION
(AMENDMENT) (EU EXIT) REGULATIONS 2020**

PART 1

General

1. Citation and commencement

PART 2

Amendment of Primary Legislation made under the European Communities Act 1972

CHAPTER 1

Amendment of the Financial Services and Markets Act 2000

2. Amendment of the Financial Services and Markets Act 2000

CHAPTER 2

Amendment of the Banking Act 2009

3. Introduction

4. Interpretation

5. Removal of impediments to the exercise of stabilisation powers etc.

6. Mandatory write-down, conversion etc.

7. In section 6B (mandatory write-down, conversion, etc of capital instruments)—...

8. In section 6C (mandatory reduction instruments: implementation of requirements of...

9. Bail-in: sequence of write-down and conversion of capital instruments and liabilities
10. Special bail-in provision
11. General interpretation of section 48B
12. Pre-conditions for financial assistance: duty of Bank to give information
13. Cases where mandatory write-down, conversion etc. applies: banking group companies
14. Groups: sale to commercial purchaser and transfer to bridge bank: holding companies
15. Groups: transfer to asset management vehicle: holding companies
16. Groups: bail-in option: holding companies
17. For the heading for section 81C substitute “Sections 81AA to...”
18. In section 81C (section 81B or 81ZBA: supplemental)—
19. In the heading for section 81CA, after “Section 81BA” insert...
20. In section 81CA(1), after “section 81BA” insert “or section 81BB”....
21. Resolution of banks not regulated by the PRA
22. Resolution of recognised central counterparties
23. Recognition of third-country resolution actions
24. Resolution of UK branches of third-country institutions
25. Index of defined terms

PART 3

Amendment of Secondary legislation made under the European Communities Act 1972

26. Amendment of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999
27. Amendment of the Credit Institutions (Reorganisation and Winding up) Regulations 2004
28. Amendment of the Banking Act 2009 (Restriction of Special Bail-in Provisions, etc) Order 2014
29. Amendment of the Bank Recovery and Resolution (No.2) Order 2014
30. In article 2(1) (a) in the definition of “the capital...”
31. In article 40, after paragraph (6) insert—
32. In article 42(4), after “reasoned” insert “and substantiated”.
33. In article 48(2)— (a) in the opening words omit “For...”
34. In article 53, for paragraph (2)(a) substitute—
35. In article 61(2), after “take resolution action” insert “in respect...”
36. In article 62— (a) in paragraph (2), at the end...
37. In article 64(2)— (a) in the definition of “relevant proposals”—...
38. In article 66— (a) in paragraph (3)(a), for “four month”...
39. In article 68(2), at the end insert— “response period” means—...
40. In article 71(1), for “four months” substitute “the response period”....
41. In article 72(1), for the words from “within four months”...
42. In article 75(2), at the end insert— “response period” means—...
43. After article 75, insert— Report on substantive impediments to the...
44. In article 78(b), for “four months” substitute “the response period”....
45. In article 122(1)(a), omit “expressed as a percentage of the...”
46. In article 123(6), for the words from “criteria” to the...
47. In article 125(2)— (a) in the definition of “minimum consolidated...”
48. In article 126— (a) in paragraph (1) at the end...
49. In article 127(1), after “requirement” insert “for a resolution group”....
50. In article 128(1), in the opening words after “requirement” insert...
51. In article 129(1), after “requirement” insert “for each resolution group”....

52. In article 131(1), after “requirement” insert “for each resolution group”...
53. In article 135(6)(a), for “Article 45.6 of the recovery and...
54. In articles 139(1) and 146(1), omit “expressed as a percentage...
55. In article 142(6)(a), after “recovery and resolution directive” insert “as...
56. In article 195(a), after “Union subsidiary” insert “or a Union...
57. In article 196— (a) in paragraph (1)(a), after “Union subsidiary”...
58. In Schedule 1, in paragraph 4(2), in paragraphs (q) and...
59. In Schedule 2, in paragraph 2— (a) in sub-paragraph (a),...
60. In Schedule 4, for paragraph 23 substitute— Part 13 has effect as if the following sections were...

PART 4

Amendment of legislation made under the European Union (Withdrawal) Act 2018

CHAPTER 1

Amendment of Primary Legislation

61. Amendment of the Banking Act 2009
62. In section 3— (a) in the definition of “resolution entity”—...
63. In section 48B (special bail-in provision), in subsection (8)(ea), omit...
64. In section 48D (general interpretation of section 48B), in subsection...
65. In section 81ZZBA (sale to commercial purchaser and transfer to...
66. In section 81ZZBB (assessment of conditions for section 81ZZBA)—
67. In section 81ZBB (transfer to asset management vehicle: supplemental powers...
68. In section 81ZBC (assessment of conditions for section 81ZBB)—
69. In section 81BB (bail-in option: supplemental powers in relation to...
70. In section 81BC (assessment of conditions for section 81BB)—
71. In section 89A (application to investment firms), in the Table...
72. In section 89JA (resolution of UK branches of third-country institutions),...

CHAPTER 2

Amendment of Secondary Legislation

73. Amendment of the Credit Institutions (Reorganisation and Winding up) Regulations 2004
74. Amendment of the Bank Recovery and Resolution (No.2) Order 2014

CHAPTER 3

Amendment of EU Exit Legislation

75. Amendment of the Bank Recovery and Resolution and Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018
76. Amendment of Schedule 1
77. Amendment of Schedule 3
78. Amendment of Schedule 4
79. Amendment of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019

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Revocation of technical standards under the Recovery and Resolution Directive

80. Revocation of technical standards under the Recovery and Resolution Directive

PART 5

Other Provision made under the European Communities Act 1972

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Suspension of obligations, interests and rights

81. Interpretation
82. The exercise of any of the powers in this Chapter...
83. Suspension of obligations prior to exercise of stabilisation powers
84. Suspension of security interests prior to exercise of stabilisation powers
85. Suspension of termination rights prior to exercise of stabilisation powers
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Power to prohibit distributions

91. Power to prohibit distributions

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Transfer of losses or capital between members of a group

92. Transfer of losses or capital between members of a group

CHAPTER 4

Contractual recognition of bail-in

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96. Contracts for which a contractual term is required
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98. Evidence to demonstrate compliance with regulation 94 obligation
99. Exclusions
100. Determination of impracticality
101. Suspension of the regulation 94 obligation
102. Assessment of the determination of impracticability
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104. Assessment of resolvability

- 105. Exercise of power to remove impediments to resolvability
- 106. Exclusion of liabilities from the minimum requirement for own funds and eligible liabilities
- 107. Exercise of resolution powers where contractual term not included

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Amendments to priority of debts in insolvency

- 108. Transitional provision

Amendment of the Insolvency Act 1986

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- 112. Non-preferential debts in bankruptcy proceedings
- 113. Interpretation
- 114. Administration

Amendment of the Insolvency (Northern Ireland) Order 1989

- 115. Introduction
- 116. Non-preferential debts in company voluntary arrangements
- 117. Non-preferential debts in winding up of companies
- 118. Non-preferential debts in bankruptcy proceedings
- 119. Interpretation
- 120. Administration

Further Amendment of Insolvency Legislation

- 121. Amendments of the Insolvent Partnerships Order 1994
- 122. Amendments of the Insolvent Partnerships Order (Northern Ireland) 1995
- 123. Housing Act 1996
- 124. Housing and Regeneration Act 2008
- 125. Housing (Scotland) Act 2010
- 126. Bankruptcy (Scotland) Act 2016
- 127. Section 129 (priority in distribution) applies as if it were...
- 128. Section 129A (section 129: interpretation) applies as if for subsection...
 - Signature
 - Explanatory Note