



# Banking Act 1987 (repealed)

## 1987 CHAPTER 22

### PART II **U.K.**

#### THE DEPOSIT PROTECTION SCHEME

##### Modifications etc. (not altering text)

- C1** Pt. II (ss. 50-66) modified (1.7.1995<sup>temp.</sup> to 31.12.1999) by S.I. 1995/1442, **reg. 54(2)**.  
Pt. II (ss. 50-66) continued for certain purposes (subject to modifications) (1.12.2001) by S.I. 2001/2967, arts. 1(2), 9, 11, **Sch. 1 Pt. 1**; S.I. 2001/3538, **art. 2(1)**

#### *The Board and the Fund*

### **50 The Deposit Protection Board. **U.K.****

- (1) The body corporate known as the Deposit Protection Board and the Fund known as the Deposit Protection Fund established by section 21 of the <sup>M1</sup>Banking Act 1979 shall continue to exist.
- (2) The Deposit Protection Board (in this Part of this Act referred to as “the Board”) shall—
  - (a) hold, manage and apply the Fund in accordance with the provisions of this Part of this Act;
  - (b) levy contributions for the Fund, in accordance with those provisions, from [<sup>F1</sup>contributory institutions.]; and
  - (c) have such other functions as are conferred on the Board by those provisions.
- (3) Schedule 4 to this Act shall have effect with respect to the Board.

##### Textual Amendments

- F1** Words in s. 50(2)(b) substituted (1.7.1995) by S.I. 1995/1442, **regs. 25, 53(1), 54(2)**

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*Changes to legislation: There are currently no known outstanding effects for the Banking Act 1987 (repealed), Part II. (See end of Document for details)*

#### Modifications etc. (not altering text)

- C2** S. 50 amended (1.1.1993) by S.I. 1992/3218, reg. 47, **Sch. 8 para. 13**.  
**C3** S. 50: power to apply conferred (9.6.1997) by 1997 c. 32, **s. 32(2)**; S.I. 1997/1427, **art. 2(g)**  
**C4** S. 50: power to repeal conferred (9.6.1997) by 1997 c. 32, **s. 32(5)(a)**; S.I. 1997/1427, **art. 2(g)**

#### Marginal Citations

- M1** 1979 c. 37.

## 51 The Deposit Protection Fund. **U.K.**

- (1) The Fund shall consist of—
- (a) any money which forms part of the Fund when this section comes into force;
  - (b) initial, further and special contributions levied by the Board under this Part of this Act;
  - (c) money borrowed by the Board under this Part of this Act; and
  - (d) any other money required by any provision of this Part of this Act to be credited to the Fund or received by the Board and directed by it to be so credited.
- (2) The money constituting the Fund shall be placed by the Board in an account with the Bank.
- (3) As far as possible, the Bank shall invest money placed with it under subsection (2) above in Treasury bills; and any income from money so invested shall be credited to the Fund.
- [<sup>F2</sup>(3A) In subsection (3) above, the reference to Treasury bills includes a reference to bills and other short-term instruments issued by the government of another EEA State and appearing to the Bank to correspond as nearly as may be to Treasury bills.]
- (4) There shall be chargeable to the Fund—
- (a) repayments of special contributions under section 55(2) below;
  - (b) payments under section 58 below;
  - (c) money required for the repayment of, and the payment of interest on, money borrowed by the Board; and
  - (d) the administrative and other necessary or incidental expenses incurred by the Board.

#### Textual Amendments

- F2** S. 51(3A) inserted (1.7.1995) by S.I. 1995/1442, **regs. 26, 53(1), 54(2)**

#### Modifications etc. (not altering text)

- C5** S. 51: power to apply conferred (9.6.1997) by 1997 c. 32, **s. 32(2)**; S.I. 1997/1427, **art. 2(g)**.  
**C6** S. 51: power to repeal conferred (9.6.1997) by 1997 c. 32, **s. 32(5)(a)**; S.I. 1997/1427, **art. 2(g)**.

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### *Contributions to the Fund*

## **52 Contributory institutions and general provisions as to contributions. U.K.**

[<sup>F3</sup>(1) All UK institutions and participating institutions shall be liable to contribute to the Fund and are in this Part of this Act referred to as 'contributory institutions'.]

(2) Contributions to the Fund shall be levied on a contributory institution by the Board by the service on the institution of a notice specifying the amount due, which shall be paid by the institution not later than twenty-one days after the date on which the notice is served.

[<sup>F4</sup>(2A) Where—

- (a) a notice under subsection (2) above is served on a contributory institution; and
- (b) the amount specified in the notice remains unpaid after the period of twenty-one days mentioned in that subsection,

the Board shall as soon as practicable give written notice of that fact to the [<sup>F5</sup>Authority]].

(3) Subject to section 56 below, on each occasion on which contributions are to be levied from contributory institutions (other than the occasion of the levy of an initial contribution from a particular institution under section 53 below)—

- (a) a contribution shall be levied from each of the contributory institutions; and
- (b) the amount of the contribution of each institution shall be ascertained by applying to the institution's deposit base the percentage determined by the Board for the purpose of the contribution levied on that occasion.

[<sup>F6</sup>(4) Subject to subsection (4B) and section 57 below, the deposit base of an institution in relation to any contribution is the amount which the Board determines as representing the average, over such period preceding the levying of the contribution as appears to the Board to be appropriate, of deposits in EEA currencies with the United Kingdom offices of that institution other than—

- (a) secured deposits;
- (b) deposits which are own funds within the meaning given by Article 2 of Directive 89/299/EEC<sup>F7</sup>;
- (c) deposits which fall within item 1 or 2 of Annex I to Directive 94/19/EC<sup>F8</sup>; and
- (d) deposits in respect of which the institution has in the United Kingdom issued a certificate of deposit in an EEA currency.

(4A) In its application to UK institutions, subsection (4) above shall have effect as if the reference to United Kingdom offices included a reference to offices in other EEA States.

(4B) In the case of a participating EEA institution, the amount determined under subsection (4) above shall be reduced by the amount given by the formula—

$$\frac{HS}{UK}$$

where—PA = so much of the amount so determined as is attributable to deposits which are protected by the institution's home State scheme;

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HS = the level of protection (expressed in ecus) afforded by that scheme at the time when the determination is made, or the level of protection mentioned below, whichever is the less;

UK = the level of protection (so expressed) afforded by this Part of this Act at that time.]

(5) In its application to this section, section 5(3) above shall have effect with the omission of paragraphs (b) and (c).

[<sup>F9</sup>(6) In this Part of this Act—

‘the 1995 Regulations’ means the Credit Institutions (Protection of Depositors) Regulations 1995;

‘administrator’, in relation to an institution, means an administrator of the institution under Part II of the Insolvency Act 1986 <sup>F10</sup> or Part III of the Insolvency (Northern Ireland) Order 1989 <sup>F11</sup>;

‘building society’ means a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986;

‘the deposit protection scheme’ means the scheme for the protection of depositors continued in force by this Part of this Act;

‘ecu’ means—

- (a) the European currency unit as defined in Article 1 of Council Regulation No. 3320/94/EC <sup>F12</sup>; or
- (b) except in section 60(1) below, any other unit of account which is defined by reference to the European currency unit as so defined;

‘EEA currency’ means the currency of an EEA State or ecus;

‘EEA State’ means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 <sup>F13</sup> as adjusted by the Protocol signed at Brussels on 17th March 1993 <sup>F14</sup>;

‘former authorised institution’ does not include any institution which is a former UK institution or a former participating institution;

‘former participating institution’ means an institution which was formerly a participating institution and continues to have a liability in respect of any deposit for which it had a liability at a time when it was a participating institution, and ‘former participating EEA institution’ and ‘former participating non-EEA institution’ shall be construed accordingly;

‘former UK institution’ means an institution which was formerly a UK institution and continues to have a liability in respect of any deposit for which it had a liability at a time when it was a UK institution;

‘home State scheme’ has the same meaning as in the 1995 Regulation;

‘participating EEA institution’ means a European authorised institution which, in accordance with Chapter I of Part II of the 1995 Regulations, is participating in the deposit protection scheme;

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'participating institution' means a participating EEA institution or a participating non-EEA institution;

'participating non-EEA institution' means an authorised institution which is incorporated in or formed under the law of a country or territory outside the European Economic Area, not being one—

- (a) which has, in accordance with Chapter III of Part II of the 1995 Regulations, elected not to participate in the deposit protection scheme; and
- (b) whose election under that Chapter is still in force;

'UK institution' means an authorised institution which is incorporated in or formed under the law of any part of the United Kingdom.

- (7) In its application to this Part, section 5(3) above shall have effect as if—
  - (a) the references in paragraph (a) to an authorised institution included references to a building society and to any credit institution which is incorporated in or formed under the law of a country or territory outside the United Kingdom; and
  - (b) in Schedule 2 to this Act, paragraph 5 (building societies) were omitted.]

[<sup>F15</sup>(8) This Part of this Act shall apply as if Gibraltar were an EEA State other than the United Kingdom.]

#### Textual Amendments

- F3 S. 52(1) substituted (1.7.1995) by S.I. 1995/1442, **regs. 27(1), 53(1), 54(2)**
- F4 S. 52(2A) inserted (1.7.1995) by S.I. 1995/1442, **regs. 27(2), 53(1), 54(2)**
- F5 Word in s. 52(2A) substituted (1.6.1998) by 1998 c. 11, s. 23, **Sch. 5 Pt. I Ch. I para. 14; S.I. 1998/1120, art. 2**
- F6 S. 52(4)-(4B) substituted (1.7.1995) for s. 52(4) by S.I. 1995/1442, **regs. 27(3), 53(1), 54(2)**
- F7 O.J. L124, 5.5.89, page 16.
- F8 O.J. L135, 31.5.94, page 5.
- F9 S. 52(6)(7) inserted (1.7.1995) by S.I. 1995/1442, **regs. 27(4), 53(1), 54(2)**
- F10 1986 c. 45.
- F11 S.I. 1989/2405 (N.I. 19).
- F12 O.J. L350, 31.12.94, page 1.
- F13 Cm 2073.
- F14 Cm 2183.
- F15 S. 52(8) inserted (20.8.1999) by S.I. 1999/2094, **reg. 5**

#### Modifications etc. (not altering text)

- C7 S. 52 amended (1.1.1993) by S.I. 1992/3218, **reg. 47, Sch. 8 para. 14.**
- C8 S. 52: power to apply conferred (9.6.1997) by 1997 c. 32, **s. 32(2); S.I. 1997/1427, art. 2(g).**
- C9 S. 52: power to repeal conferred (9.6.1997) by 1997 c. 32, **s. 32(5)(a); S.I. 1997/1427, art. 2(g).**

## 53 Initial contributions. **U.K.**

- (1) Subject to subsection (4) below, where an institution becomes a contributory institution after the coming into force of this Part of this Act the Board shall levy from it, on or as soon as possible after the day on which it becomes a contributory institution, an initial contribution of an amount determined in accordance with subsection (2) or (3) below.

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- (2) Where the institution concerned has a deposit base, then, subject to section 56(1) below, the amount of an initial contribution levied under this section shall be such percentage of the deposit base as the Board considers appropriate to put the institution on a basis of equality with the other contributory institutions, having regard to—
- (a) the initial contributions previously levied under this section or under section 24(1) of the <sup>M2</sup>Banking Act 1979; and
  - (b) so far as they are attributable to an increase in the size of the Fund resulting from an order under subsection (2) of section 54 below or subsection (2) of section 25 of that Act, further contributions levied under either of those sections.
- [<sup>F16</sup>(2A) In its application to participating EEA institutions, subsection (2) above shall have effect as if the reference to a basis of equality were a reference to a basis of parity.]
- (3) Where the institution concerned has no deposit base the amount of an initial contribution levied under this section shall be the minimum amount for the time being provided for in section 56(1) below.
- (4) The Board may waive an initial contribution under this section if it appears to it that the institution concerned is to carry on substantially the same business as that previously carried on by one or more institutions which are or were contributory institutions.

#### Textual Amendments

**F16** S. 53(2A) inserted (1.7.1995) by S.I. 1995/1442, **regs. 28, 53(1), 54(2)**

#### Modifications etc. (not altering text)

**C10** S. 53: power to apply conferred (9.6.1997) by 1997 c. 32, **s. 32(2)**; S.I. 1997/1427, **art. 2(g)**.

**C11** S. 53: power to repeal conferred (9.6.1997) by 1997 c. 32, **s. 32(5)(a)**; S.I. 1997/1427, **art. 2(g)**.

#### Marginal Citations

**M2** 1979 c. 37.

## 54 Further contributions. **U.K.**

- (1) If at the end of any financial year of the Board the amount standing to the credit of the Fund is less than £3 million the Board may, with the approval of the Treasury, levy further contributions from contributory institutions so as to restore the amount standing to the credit of the Fund to a minimum of £5 million and a maximum of £6 million.
- (2) If at any time it appears to the Treasury to be desirable in the interests of depositors to increase the size of the Fund, the Treasury may, after consultation with the Board, by order amend subsection (1) above so as to substitute for the sums for the time being specified in that subsection such larger sums as may be specified in the order; but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (3) An order under subsection (2) above may authorise the Board forthwith to levy further contributions from contributory institutions so as to raise the amount standing to the credit of the Fund to a figure between the new minimum and maximum amounts provided for by the order.

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**Modifications etc. (not altering text)**

**C12** S. 54: power to apply conferred (9.6.1997) by 1997 c. 32, s. 32(2); S.I. 1997/1427, art. 2(g).

**C13** S. 54: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, art. 2(g).

**55 Special contributions. U.K.**

- (1) If it appears to the Board that payments under section 58 below are likely to exhaust the Fund, the Board may, with the approval of the Treasury, levy special contributions from contributory institutions to meet the Fund's commitments under that section.
- (2) Where at the end of any financial year of the Board there is money in the Fund which represents special contributions and will not in the opinion of the Board be required for making payments under section 58 below in consequence of institutions having become insolvent or subject to administration orders before repayments are made under this subsection the Board—
  - (a) shall repay to the institutions from which it was levied so much (if any) of that money as can be repaid without reducing the amount standing to the credit of the Fund below the maximum amount for the time being specified in subsection (1) of section 54 above; and
  - (b) may repay to those institutions so much (if any) of that money as can be repaid without reducing the amount standing to the credit of the Fund below the minimum amount for the time being specified in that subsection.
- (3) Repayments to institutions under this section shall be made pro rata according to the amount of the special contribution made by each of them but the Board may withhold the whole or part of any repayment due to an institution that has become insolvent and, in the case of an institution that has ceased to be a contributory institution, may either withhold its repayment or make it to any other contributory institution which, in the opinion of the Board, is its successor.

**Modifications etc. (not altering text)**

**C14** S. 55: power to apply conferred (9.6.1997) by 1997 c. 32, s. 32(2); S.I. 1997/1427, art. 2(g).

**C15** S. 55: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, art. 2(g).

**56 Maximum and minimum contributions. U.K.**

- (1) The amount of the initial contribution levied from a contributory institution shall be not less than £10,000.
- (2) The amount of the initial contribution or any further contribution levied from a contributory institution shall not exceed £300,000.
- (3) No contributory institution shall be required to pay a further or special contribution if, or to the extent that, the amount of that contribution, together with previous initial, further and special contributions made by the institution, after allowing for any repayments made to it under section 55(2) above or section 63 below, amounts to more than 0.3 per cent. of the institution's deposit base as ascertained for the purpose of the contribution in question.
- (4) Nothing in subsection (3) above—

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- (a) shall entitle an institution to repayment of any contribution previously made; or
  - (b) shall prevent the Board from proceeding to levy contributions from other contributory institutions in whose case the limit in that subsection has not been reached.
- (5) The Treasury may from time to time after consultation with the Board by order—
- (a) amend subsection (1) or (2) above so as to substitute for the sum for the time being specified in that subsection such other sum as may be specified in the order; or
  - (b) amend subsection (3) above so as to substitute for the percentage for the time being specified in that subsection such other percentage as may be specified in the order.
- (6) No order shall be made under subsection (5) above unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

**Modifications etc. (not altering text)**

**C16** S. 56: power to apply conferred (9.6.1997) by 1997 c. 32, s. 32(2); S.I. 1997/1427, art. 2(g).

**C17** S. 56: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, art. 2(g).

**57** **Deposit base of transferee institutions.** **U.K.**

- (1) This section applies where the liabilities in respect of deposits of a person specified in Schedule 2 to this Act (an “exempted person”) are transferred to an institution which is not such a person (a “transferee institution”).
- (2) If the transferee institution becomes a contributory institution on the occasion of the transfer or immediately thereafter it shall be treated for the purposes of section 53 above as having such deposit base as it would have if—
  - (a) [<sup>F17</sup>deposits in EEA currencies] with the United Kingdom offices of the exempted person at any time had at that time been [<sup>F17</sup>deposits in EEA currencies] with the United Kingdom offices of the transferee institution; and
  - (b) [<sup>F18</sup>certificates of deposit in EEA currencies] issued by the exempted person had been issued by the transferee institution.
- (3) If the transferee institution is already a contributory institution at the time of the transfer, the Board shall levy from it, as soon as possible after the transfer, a further initial contribution of an amount equal to the initial contribution which it would have been liable to make if—
  - (a) it had become a contributory institution on the date of the transfer;
  - (b) its deposit base were calculated by reference (and by reference only) to the [<sup>F17</sup>deposits in EEA currencies] with the United Kingdom offices of the exempted person, taking [<sup>F18</sup>certificates of deposit in EEA currencies] issued by the exempted person as having been issued by the transferee institution; and
  - (c) the amount specified in section 56(2) above were reduced by the amount of any initial contribution which the transferee institution has already made.
- (4) Whether or not the transferee institution is already a contributory institution at the time of the transfer it shall be treated for the purposes of the levying from it of any further



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or special contribution as having such deposit base as it would have if the [<sup>F17</sup>deposits in EEA currencies] with its United Kingdom offices and the [<sup>F18</sup>certificates of deposit in EEA currencies] issued by it included respectively [<sup>F17</sup>deposits in EEA currencies] with the United Kingdom offices of the exempted person and [<sup>F18</sup>certificates of deposit in EEA currencies] issued by that person.

[<sup>F19</sup>(4A) In their application to UK institutions, subsections (2) to (4) above shall have effect as if references to United Kingdom offices included references to offices in other EEA States.]

(5) In its application to this section, section 5(3) above shall have effect with the omission of paragraphs (b) and (c).

#### Textual Amendments

**F17** Words in s. 57(2)-(4) substituted (1.7.1995) by S.I. 1995/1442, **regs. 29(1)(a)**, 53(1), 54(2)

**F18** Words in s. 57(2)-(4) substituted (1.7.1995) by S.I. 1995/1442, **regs. 29(1)(b)**, 53(1), 54(2)

**F19** S. 57(4A) inserted (1.7.1995) by S.I. 1995/1442, **regs. 29(2)**, 53(1), 54(2)

#### Modifications etc. (not altering text)

**C18** S. 57: power to apply conferred (9.6.1997) by 1997 c. 32, **s. 32(2)**; S.I. 1997/1427, **art. 2(g)**.

**C19** S. 57: power to repeal conferred (9.6.1997) by 1997 c. 32, **s. 32(5)(a)**; S.I. 1997/1427, **art. 2(g)**.

### *Payments out of the Fund*

## 58 Compensation payments to depositors. **U.K.**

[<sup>F20</sup>(1) Subject to the provisions of this section, if at any time an institution to which this subsection applies becomes insolvent, the Board—

- (a) shall as soon as practicable pay out of the Fund to depositors who have protected deposits with that institution which are due and payable amounts equal to nine-tenths of their protected deposits; and
- (b) shall in any event secure that, before the end of the relevant period, it is in a position to make those payments as soon as they fall to be made.

(2) Subsection (1) above applies to an institution which—

- (a) is a UK institution or participating institution;
- (b) is a former UK institution or a former participating institution; or
- (c) is a former authorised institution (not being a recognised bank or licensed institution excluded by an order under section 23(2) of the Banking Act 1979);

and if at any time such an institution ceases to be insolvent, subsection (1) above shall cease to apply in relation to that institution.

(2A) In subsection (1) above 'the relevant period' means—

- (a) the period of three months beginning with the time when the institution becomes insolvent; or
- (b) that period and such additional period or periods, being not more than three and of not more than three months each, as the [<sup>F21</sup>Authority]] may in exceptional circumstances allow.

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- (2B) A person claiming to be entitled to a payment under subsection (1) above in respect of a protected deposit with a participating institution shall make his claim in such form, with such evidence proving it, and within such period, as the Board directs.
- (2C) The amount of any payment which falls to be made under subsection (1) above in respect of a protected deposit made with an office of a UK institution in another EEA State shall not exceed such amount as the Board may determine is or would be payable, in respect of an equivalent deposit made with an institution authorised in that State, under any corresponding scheme for the protection of depositors or investors which is in force in that State.
- (2D) Where, in the case of a participating EEA institution, the Board is satisfied that a depositor has received or is entitled to receive a payment in respect of his protected deposit under any home State scheme, the Board shall deduct an amount equal to that payment from the payment that would otherwise be made to the depositor under subsection (1) above.
- (3) [<sup>F22</sup>Where, in the case of a UK institution or participating non-EEA institution, the Board is satisfied that a depositor has received or will receive a payment] in respect of his protected deposit under any scheme for protecting depositors or investors which is comparable to that for which provision is made by this Part of this Act or under a guarantee given by a government or other authority the Board may—
- (a) deduct an amount equal to the whole or part of that payment from the payment that would otherwise be made to him under subsection (1) <sup>F23</sup> . . . above; or
  - (b) in pursuance of an agreement made by the Board with the authority responsible for the scheme or by which the guarantee was given, make in full the payment required by that subsection and recoup from that authority such contribution to it as may be specified in or determined under the agreement.
- (4) Where the Board makes such a deduction as is mentioned in paragraph (a) of subsection (3) above it may agree with the authority responsible for the scheme or by which the guarantee was given to reimburse that authority to the extent of the deduction or any lesser amount.
- [<sup>F24</sup>(5) The Board may decline to make any payment under subsection (1) to a person who, in the opinion of the Board—
- (a) has any responsibility for, or may have profited directly or indirectly from, the circumstances giving rise to the institution's financial difficulties; or
  - (b) has received or is entitled to receive a payment in respect of his protected deposit under a scheme established under section 54 of the Financial Services Act 1986 or set up pursuant to the conditions and arrangements referred to in section 43(2) of that Act,
- and where any payment as mentioned in paragraph (b) above has been received by a person, the Board shall decline to make a payment under subsection (1) to that person.]
- [<sup>F25</sup>(6) There shall be deducted from any payment to be made by the Board under subsection (1) above in respect of a deposit any payment already made in respect of that deposit by a liquidator or administrator of the institution; and in this subsection, in relation to an institution formed under the law of a country or territory outside the United Kingdom, the reference to a liquidator or administrator includes a reference to a person whose functions appear to the Board to correspond as nearly as may be to those of a liquidator or administrator.]

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- (7) The Treasury may, after consultation with the Board, by order amend [<sup>F26</sup>subsection (1)] above so as to substitute for the fraction for the time being specified in [<sup>F26</sup>that subsection] such other fraction as may be specified in the order; but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (8) Notwithstanding that the Board may not yet have made or become liable to make a payment under subsection (1) above in relation to an institution falling within that subsection—
- (a) the Board shall at all times be entitled to receive any notice or other document [<sup>F27</sup>required to be sent to a creditor of the institution under Part II of the Insolvency Act 1986 or under Part III of the Insolvency (Northern Ireland) Order 1989, or] required to be sent to a creditor of the institution whose debt has been proved; and
  - (b) a duly authorised representative of the Board shall be entitled—
    - (i) to attend any meeting of creditors of the institution and to make representations as to any matter for decision at that meeting;
    - (ii) to be a member of any committee established under [<sup>F28</sup>section 26 or 30] of the <sup>M3</sup>Insolvency Act 1986;
    - (iii) to be a commissioner under section 30 of the <sup>M4</sup>Bankruptcy (Scotland) Act 1985; and
    - (iv) to be a member of a committee established for the purposes of Part IV or V of the <sup>M5</sup>Insolvency Act 1986 under section 101 of that Act or under section 141 or 142 of that Act <sup>F29</sup> . . .
    - <sup>F30</sup>(v) to be a member of any committee established under [<sup>F31</sup>Article 38 or 274] of the Insolvency (Northern Ireland) Order 1989; and
    - (vi) to be a member of a committee established for the purposes of Part V or VI of the Insolvency (Northern Ireland) Order 1989 under Article 87 of that Order or under Article 120 of that Order.]
- (9) Where a representative of the Board exercises his right to be a member of such a committee as is mentioned in paragraph (b)(ii) or (iv) of subsection (8) above or to be a commissioner by virtue of paragraph (b)(iii) of that subsection he may not be removed except with the consent of the Board and his appointment under that subsection shall be disregarded for the purposes of any provision made by or under any enactment which specifies a minimum or maximum number of members of such a committee or commission.
- <sup>F32</sup>(10) References in this section and sections 59 and 60 below to a former authorised institution include references to an institution which—
- (a) was formerly a European authorised institution which accepted deposits in the United Kingdom; and
  - (b) continues to have a liability in respect of any deposit for which it had a liability when it was such an institution;
- and references in section 60 below to ceasing to be an authorised institution include references to ceasing to be a European authorised institution which accepted deposits in the United Kingdom.]

#### Textual Amendments

**F20** S. 58(1)-(2D) substituted for (1.7.1995) for s. 58(1)(2) by S.I. 1995/1442, regs. 30(1), 53(1), 54(2)

*Status: Point in time view as at 20/08/1999.*

*Changes to legislation: There are currently no known outstanding effects for the Banking Act 1987 (repealed), Part II. (See end of Document for details)*

- F21** Word in s. 58(2A)(b) substituted (1.6.1998) by 1998 c. 11, s. 23, **Sch. 5 Pt. I Ch. I para. 14**; S.I. 1998/1120, **art. 2**
- F22** Words in s. 58(3) substituted (1.7.1995) by S.I. 1995/1442, **regs. 30(2)(a)**, 53(1), 54(2)
- F23** Words in s. 58(3) omitted (1.7.1995) by virtue of S.I. 1995/1442, **regs. 30(2)(b)**, 53(1), 54(2)
- F24** S. 58(5) substituted (26.9.1998) by S.I. 1998/2169, **reg. 4**
- F25** S. 58(6) substituted (1.7.1995) by S.I. 1995/1442, **regs. 30(4)**, 53(1), 54(2)
- F26** Words in s. 58(7) substituted (1.7.1995) by S.I. 1995/1442, **regs. 30(5)**, 53(1), 54(2)
- F27** Words in s. 58(8)(a) inserted (1.7.1995) by S.I. 1995/1442, **regs. 30(6)(a)**, 53(1), 54(2)
- F28** Words in s. 58(8)(b)(ii) substituted (1.7.1995) by S.I. 1995/1442, **regs. 30(6)(b)**, 53(1), 54(2)
- F29** Words in s. 58(8)(b)(iv) repealed (01.10.1991) by S.I. 1989/2405 (N.I. 19), art. 381(2), **Sch. 9 para. 50(b)(i)**; S.R. 1991/411, **art. 2**
- F30** S. 58(8)(b)(v)(vi) inserted (01.10.1991) by S.I. 1989/2405 (N.I. 19), art. 381(2), **Sch. 9 para. 50(b)(ii)**; S.R. 1991/411, **art. 2**
- F31** Words in s. 58(8)(b)(v) substituted (1.7.1995) by S.I. 1995/1442, **regs. 30(6)(c)**, 53(1), 54(2)
- F32** S. 58(10) substituted (1.7.1995) by S.I. 1995/1442, **regs. 30(7)**, 53(1), 54(2)

#### Modifications etc. (not altering text)

- C20** S. 58 amended (1.1.1993) by S.I. 1992/3218, reg. 47, **Sch. 8 para. 15**.
- C21** S. 58: power to amend conferred (9.6.1997) by 1997 c. 32, s. 32(5)(b)(i); S.I. 1997/1427, **art. 2(g)**.

#### Marginal Citations

- M3** 1986 c. 45.
- M4** 1985 c. 66.
- M5** S.I. 1986/1032 (N.I. 6).

### [59] <sup>F33</sup> **Meaning of insolvency etc. U.K.**

- (1) For the purposes of this Part of this Act, a UK institution or participating non-EEA institution becomes insolvent—
- (a) on the making by the [<sup>F34</sup>Authority]] of a determination that, for reasons which directly relate to the institution's financial circumstances, the institution—
    - (i) is unable to repay deposits which are due and payable; and
    - (ii) has no current prospect of being able to do so;
  - (b) on the making by a court in any part of the United Kingdom, or in another EEA State, or a judicial ruling which—
    - (i) directly relates to the institution's financial circumstances; and
    - (ii) has the effect of suspending the ability of depositors to make claims against the institution; or
  - (c) in the case of a participating non-EEA institution, on the making by a court in any country or territory outside the European Economic Area of a judicial ruling which appears to the Board to correspond as nearly as may be to such a judicial ruling as is mentioned in paragraph (b) above,
- but only if deposits made with the institution have become due and payable and have not been repaid.
- (2) For those purposes, a participating EEA institution becomes insolvent—
- (a) on the making by the supervisory authority in the institution's home State of a declaration that deposits held by the institution are no longer available; or
  - (b) on the making by a court in any part of the United Kingdom, or in an EEA State other than the institution's home State, of a judicial ruling which—

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- (i) directly relates to the institution's financial circumstances; and
  - (ii) has the effect of suspending the ability of depositors to make claims against the institution,
- but only if, in a case falling within paragraph (b) above, deposits made with the institution have become due and payable and have not been repaid.
- (3) For those purposes—
- (a) an institution which has become insolvent by virtue of such a determination or declaration as is mentioned in subsection (1)(a) or (2)(a) above ceases to be insolvent on any withdrawal of the determination or declaration; and
  - (b) an institution which has become insolvent by virtue of such a judicial ruling as is mentioned in subsection (1)(b) or (c) or (2)(b) above ceases to be insolvent on any reversal of the ruling (whether on appeal or otherwise).
- (4) In relation to a UK institution or participating non-EEA institution, it shall be the duty of the [<sup>F34</sup>Authority]—
- (a) to make such a determination as is mentioned in subsection (1)(a) above within 21 days of its being satisfied as there mentioned; and
  - (b) to withdraw such a determination within 21 days of its ceasing to be so satisfied.
- (5) In this section—
- (a) any reference to a UK institution includes references to a former UK institution, and to a former authorised institution which is incorporated in or formed under the law of any part of the United Kingdom;
  - (b) any reference to a participating EEA institution includes references to a former participating EEA institution, and to a former authorised institution which is incorporated in or formed under the law of an EEA State other than the United Kingdom; and
  - (c) any reference to a participating non-EEA institution includes references to a former participating non-EEA institution, and to a former authorised institution which is incorporated in or formed under the law of a country or territory which is outside the European Economic Area.

#### Textual Amendments

**F33** S. 59 substituted (1.7.1995) by S.I. 1995/1442, **regs. 31**, 53(1), 54(2)

**F34** Words in s. 59(1)(a)(4) substituted (1.6.1998) by 1998 c. 11, s. 23, **Sch. 5 Pt. I Ch. I para. 14**; S.I. 1998/1120, **art. 2**

#### Modifications etc. (not altering text)

**C22** S. 59: power to amend conferred (9.6.1997) by 1997 c. 32, **s. 32(5)(b)(i)**; S.I. 1997/1427, **art. 2(g)**.

**C23** S. 59(4)(a) modified (1.7.1995) by S.I. 1995/1442, **regs. 53(3)**, 54(2)

## 60 Protected deposits. **U.K.**

[<sup>F35</sup>(1) Subject to the provisions of this section, in relation to an institution in respect of which a payment falls to be made under section 58(1) above, any reference in this Act to a depositor's protected deposit is a reference to the liability of the institution to him in respect of—

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- (a) the principal amount of each deposit in an EEA currency which was made by him with a United Kingdom office of the institution before the time when the institution became insolvent and has become due and payable; and
  - (b) accrued interest on any such deposit up to the time when it became due and payable,
- but so that the total liability of the institution to him in respect of such deposits does not exceed £20,000, or the sterling equivalent of 22,222 ecus immediately before the time when the institution became insolvent, whichever is the greater.
- (2) In calculating a depositor's protected deposit for the purposes of subsection (1) above, the amount to be taken into account as regards any deposit made in another EEA currency shall be its sterling equivalent immediately before the time when the institution became insolvent, or the time when the deposit became due and payable, whichever is the later.
- (2A) In its application to UK institutions, subsection (1) above shall have effect as if any reference to United Kingdom offices included a reference to offices in other EEA States.
- (3) For the purposes of subsection (1) above no account shall be taken of any liability unless—
- (a) proof of the debt, or a claim for repayment of the deposit, which gives rise to the liability has been lodged with a liquidator or administrator of the institution; or
  - (b) the depositor has provided the Board with all such written authorities, information and documents as, in the event of a liquidator or administrator being appointed, the Board will need for the purpose of lodging and pursuing, on the depositor's behalf, a proof of the debt, or a claim for the repayment of the deposit, which gives rise to the liability.
- (4) In subsection (3) above, in relation to an institution incorporated in or formed under the law of a country or territory outside the United Kingdom—
- (a) references to a liquidator or administrator include references to a person whose functions appear to the Board to correspond as nearly as may be to those of a liquidator or administrator; and
  - (b) references to the lodging, or the lodging and pursuing, of a proof of the debt, or a claim for the repayment of the deposit, which gives rise to the liability include references to the doing of an act or acts which appear to the Board to correspond as nearly as may be to the lodging, or the lodging and pursuing, of such a proof or claim.]
- (5) The Treasury may, after consultation with the Board, by order amend [<sup>F36</sup>subsection (1)] above so as to substitute for the sum for the time being specified in those subsections such larger sum as may be specified in the order; but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- [<sup>F37</sup>(6) In determining the liability or total liability of an institution to a depositor for the purposes of subsection (1) above, no account shall be taken of any liability in respect of a deposit if—
- (a) it is a secured deposit; or
  - (b) it is a deposit which is own funds within the meaning given by Article 2 of Directive [89/299/EEC](#)<sup>F38</sup>, or

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- (c) it is a deposit which the Board is satisfied was made in the course of a money-laundering transaction; or
- (d) it is a deposit by a person mentioned in item 1 or 2 of Annex I to Directive 94/19/EC<sup>F39</sup> which was made otherwise than as trustee for a person not so mentioned; or
- (e) the institution is a former UK institution or former authorised institution and the deposit was made after it ceased to be a UK institution or authorised institution unless, at the time the deposit was made, the depositor did not know, and could not reasonably be expected to have known, that it had ceased to be a UK institution or authorised institution; or
- (f) the institution is a former participating EEA institution and the deposit was made after it ceased to be a participating EEA institution; or
- (g) the institution is a former participating non-EEA institution and the deposit was made after it ceased to be a participating non-EEA institution unless the Board is satisfied—
  - (i) that the depositor is entitled under the institution’s home State scheme to a payment in respect of the deposit; and
  - (ii) that he has not received, and has no prospect of receiving, that payment;

and references in paragraph (e) above to an institution ceasing to be an authorised institution include references an institution ceasing to be a recognised bank or licensed institution under the Banking Act 1979.

- (6A) A transaction in connection with which an offence has been committed under—
- (a) any enactment specified in regulation 2(3) of the Money Laundering Regulations 1993<sup>F40</sup>; or
  - (b) any enactment in force in another EEA State, or in a country or territory outside the European Economic Area, which has effect for the purpose of prohibiting money laundering within the meaning of Article 1 of Directive 91/308/EEC<sup>F41</sup>,

is a money-laundering transaction for the purposes of subsection (6)(c) above at any time if, at that time, a person stands convicted of the offence or has been charged with the offence and has not been tried.]

- (7) Unless the Board otherwise directs in any particular case, in determining the total liability of an institution to a depositor for the purposes of subsection (1)<sup>F42</sup> . . . above there shall be deducted the amount of any liability of the depositor to the institution—
- (a) in respect of which a right of set-off existed immediately before the institution became insolvent [<sup>F43</sup>against any such deposit in an EEA currency] as is referred to in subsection (1)<sup>F42</sup> . . . above; or
  - (b) in respect of which such right would then have existed if the deposit in question had been repayable on demand and the liability in question had fallen due.

<sup>F44</sup>(8) . . . . .

- (9) For the purposes of this section and sections 61 and 62 below the definition of deposit in section 5 above—
- (a) shall be treated as including—



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- (i) any sum that would otherwise be excluded by paragraph (a), (d) or (e) of subsection (3) of that section if the sum is paid as trustee for a person not falling within any of those paragraphs;
  - (ii) any sum that would otherwise be excluded by paragraph (b) or (c) of that subsection;
  - (b) subject to subsections (10) and (11) below, shall be treated as excluding any sum paid by a trustee for a person falling within paragraph (e) of subsection (3) of that section; and
  - (c) shall be treated as including any sum the right to repayment of which is evidenced by a transferable certificate of deposit or other transferable instrument and which would be a deposit within the meaning of section 5 as extended by paragraph (a) and restricted by paragraph (b) above if it had been paid by the person who is entitled to it at the time when the institution in question becomes insolvent.
- (10) Where the trustee referred to in paragraph (b) of subsection (9) above is not a bare trustee and there are two or more beneficiaries that paragraph applies only if all the beneficiaries fall within section 5(3)(e) above.
- (11) Subsection (10) above does not extend to Scotland and, in Scotland, where there are two or more beneficiaries of a trust the trustee of which is referred to in paragraph (b) of subsection (9) above that paragraph applies only if all the beneficiaries fall within section 5(3)(e) above.

#### Textual Amendments

- F35** S. 60(1)-(4) substituted (1.7.1995) by S.I. 1995/1442, **regs. 32(1)**, 53(1), 54(2)
- F36** Words in s. 60(5) substituted (1.7.1995) by S.I. 1995/1442, **regs. 32(2)**, 53(1), 54(2)
- F37** S. 60(6)(6A) substituted (1.7.1995) for s. 60(6) by S.I. 1995/1442, **regs. 32(3)**, 53(1), 54(2)
- F38** O.J. L124, 5.5.89, page 16.
- F39** O.J. L135, 31.5.94, page 5.
- F40** S.I. 1993/1933.
- F41** O.J. L166, 28.6.91, page 77.
- F42** Words in s. 60(7) omitted (1.7.1995) by virtue of S.I. 1995/1442, **regs. 32(4)(a)**, 53(1), 54(2)
- F43** Words in s. 60(7) substituted (1.7.1995) by S.I. 1995/1442, **regs. 32(4)(b)**, 53(1), 54(2)
- F44** S. 60(8) omitted (1.7.1995) by virtue of S.I. 1995/1442, **regs. 32(5)**, 53(1), 54(2)

#### Modifications etc. (not altering text)

- C24** S. 60 amended (31.07.1991) by S.I. 1991/1776, **art. 2(1)(2)**
- C25** S. 60 amended (1.1.1993) by S.I. 1992/3218, **reg. 47, Sch. 8 para. 16.**
- C26** S. 60 power to amend conferred (9.6.1997) by 1997 c. 32, **s. 32(5)(b)(i)**; S.I. 1997/1427, **art. 2(g).**

## 61 Trustee deposits, joint deposits etc. **U.K.**

- (1) In the cases to which this section applies sections 58 and 60 above shall have effect with the following modifications.
- (2) Subject to the provisions of this section, where any persons are entitled to a deposit as trustees they shall be treated as a single and continuing body of persons distinct from the persons who may from time to time be the trustees, and if the same persons are entitled as trustees to different deposits under different trusts they shall be treated as a separate and distinct body with respect to each of those trusts.



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*Changes to legislation: There are currently no known outstanding effects for the Banking Act 1987 (repealed), Part II. (See end of Document for details)*

- (3) Where a deposit is held for any person or for two or more persons jointly by a bare trustee, that person or, as the case may be, those persons jointly shall be treated as entitled to the deposit without the intervention of any trust.
- (4) Subsection (3) above does not extend to Scotland and, in Scotland, where a deposit is held by a person as nominee for another person or for two or more other persons jointly, that other person or, as the case may be, those other persons jointly shall be treated as entitled to the deposit.
- (5) A deposit to which two or more persons are entitled as members of a partnership (whether or not in equal shares) shall be treated as a single deposit.
- (6) Subject to subsection (5) above, where two or more persons are jointly entitled to a deposit and subsection (2) above does not apply each of them shall be treated as having a separate deposit of an amount produced by dividing the amount of the deposit to which they are jointly entitled by the number of persons who are so entitled.
- (7) Where a person is entitled (whether as trustee or otherwise) to a deposit made out of a clients' or other similar account containing money to which one or more other persons are entitled, that other person or, as the case may be, each of those other persons shall be treated (to the exclusion of the first-mentioned person) as entitled to so much of the deposit as corresponds to the proportion of the money in the account to which he is entitled.
- (8) Where an authorised institution is entitled as trustee to a sum which would be a deposit apart from section 5(3)(a) above and represents deposits made with the institution, each of the persons who made those deposits shall be treated as having made a deposit equal to so much of that sum as represents the deposit made by him.
- (9) The Board may decline to make any payment under section 58 above in respect of a deposit until the person claiming to be entitled to it informs the Board of the capacity in which he is entitled to the deposit and provides sufficient information to enable the Board to determine what payment (if any) should be made under that section and to whom.
- (10) In this section "jointly entitled" means—
  - (a) in England and Wales and in Northern Ireland, beneficially entitled as joint tenants, tenants in common or coparceners;
  - (b) in Scotland, beneficially entitled as joint owners or owners in common.
- [<sup>F45</sup>(11) In the application of this section in relation to deposits made with an office of a UK institution in another EEA State, references to persons entitled in any of the following capacities, namely—
  - (a) as trustees;
  - (b) as bare trustees;
  - (c) as members of a partnership; or
  - (d) as persons jointly entitled,shall be construed as references to persons entitled under the law of that State in a capacity appearing to the Board to correspond as nearly as may be to that capacity.]

#### Textual Amendments

**F45** S. 61(11) inserted (1.7.1995) by S.I. 1995/1442, regs. 33, 53(1), 54(2)

*Status: Point in time view as at 20/08/1999.*

*Changes to legislation: There are currently no known outstanding effects for the Banking Act 1987 (repealed), Part II. (See end of Document for details)*

**Modifications etc. (not altering text)**

**C27** S. 61 amended (31.07.1991) by S.I. 1991/1776, art. 2(1)(2)

**C28** S. 61: power to amend conferred (9.6.1997) by 1997 c. 32, s. 32(5)(b)(i), 47(3); S.I. 1997/1427, art. 2(g).

**62 Liability of institution in respect of compensation payments. U.K.**

- (1) This section applies where—
- (a) an institution becomes insolvent<sup>F46</sup>. . . ; and
  - (b) the Board has made, or is under a liability to make, a payment under section 58 above by virtue of the institution becoming insolvent<sup>F46</sup>. . . ;
- and in the following provisions of this section a payment falling within paragraph (b) above, less any amount which the Board is entitled to recoup by virtue of any such agreement as is mentioned in subsection (3)(b) of that section, is referred to as “a compensation payment” and the person to whom such a payment has been or is to be made is referred to as “the depositor”.
- (2) Where this section applies in respect of an institution [<sup>F47</sup>that is being wound up]—
- (a) the institution shall become liable to the Board, as in respect of a contractual debt incurred immediately before the institution [<sup>F48</sup>began to be wound up], for an amount equal to the compensation payment;
  - (b) the liability of the institution to the depositor in respect of any deposit or deposits of his (“the liability to the depositor”) shall be reduced by an amount equal to the compensation payment made or to be made to him by the Board; and
  - (c) the duty of the liquidator of the insolvent institution to make payments to the Board on account of the liability referred to in paragraph (a) above (“the liability to the Board”) and to the depositor on account of the liability to him (after taking account of paragraph (b) above) shall be varied in accordance with subsection (3) below.
- (3) The variation referred to in subsection (2)(c) above is as follows—
- (a) in the first instance the liquidator shall pay to the Board instead of to the depositor any amount which, apart from this section, would be payable on account of the liability to the depositor except in so far as that liability relates to any such deposit as is mentioned in section 60(6) above; and
  - (b) if at any time the total amount paid to the Board by virtue of paragraph (a) above and in respect of the liability to the Board equals the amount of the compensation payment made to the depositor, the liquidator shall thereafter pay to the depositor instead of to the Board any amount which, apart from this paragraph, would be payable to the Board in respect of the liability to the Board.
- (4) Where this section applies in respect of an institution [<sup>F49</sup>that is not being wound up]—
- (a) the institution shall, at the time when the compensation payment in respect of a deposit falls to be made by the Board, become liable to the Board for an amount equal to that payment; and
  - (b) the liability of the institution to the depositor in respect of that deposit shall be reduced by an amount equal to that payment.

*Status: Point in time view as at 20/08/1999.*

*Changes to legislation: There are currently no known outstanding effects for the Banking Act 1987 (repealed), Part II. (See end of Document for details)*

- (5) Where an institution [<sup>F49</sup>is wound up after it has become insolvent] subsections (2) and (3) above shall not apply to any compensation payment to the extent to which the Board has received a payment in respect of it by virtue of subsection (4)(a) above.
- (6) Where by virtue of section 61 above the compensation payment is or is to be made by the Board to a person other than the person to whom the institution is liable in respect of the deposit any reference in the foregoing provisions of this section to the liability to the depositor shall be construed as a reference to the liability of the institution to the person to whom that payment would fall to be made by the Board apart from that section.
- (7) Where the Board makes a payment under section 58(4) above in respect of an amount deducted from a payment due to a depositor this section shall have effect as if the amount had been paid to the depositor.
- (8) Rules may be made—
- (a) for England and Wales, under sections 411 and 412 of the <sup>M6</sup>Insolvency Act 1986;
  - (b) for Scotland—
    - (i) under the said section 411; and
    - (ii) in relation to an institution whose estate may be sequestrated under the <sup>M7</sup>Bankruptcy (Scotland) Act 1985, by the Secretary of State under this subsection; and
  - (c) for Northern Ireland, under [<sup>F50</sup>Article 359 of the Insolvency (Northern Ireland) Order 1989] and section 65 of the <sup>M8</sup>Judicature (Northern Ireland) Act 1978,

for the purpose of integrating the procedure provided for in this section into the general procedure on a winding-up, bankruptcy or sequestration or under Part II of the <sup>M9</sup>Insolvency Act 1986 [<sup>F51</sup>or Part III of the Insolvency (Northern Ireland) Order 1989].

#### Textual Amendments

- F46** Words in s. 62(1)(a)(b) omitted (1.7.1995) by virtue of S.I. 1995/1442, **regs. 34(1)(a)(b)**, 53(1), 54(2)
- F47** Words in s. 62(2) substituted (1.7.1995) by S.I. 1995/1442, **regs. 34(2)(a)**, 53(1), 54(2)
- F48** Words in s. 62(2)(a) substituted (1.7.1995) by S.I. 1995/1442, **regs. 34(2)(b)**, 53(1), 54(2)
- F49** Words in s. 62(4)(5) substituted (1.7.1995) by S.I. 1995/1442, **regs. 34(3)(4)**, 53(1), 54(2)
- F50** Words in s. 62(8)(c) substituted (01.10.1991) by S.I. 1989/2405 (N.I. 19), art. 381(2), **Sch. 9 para. 52(a)**; S.R. 1991/411, **art. 2**
- F51** Words in s. 62(8) inserted (01.10.1991) by S.I. 1989/2405 (N.I. 19), art. 381(2), **Sch. 9 para. 52(b)**; S.R. 1991/411, **art. 2**

#### Modifications etc. (not altering text)

- C29** S. 62 amended (31.07.1991) by S.I. 1991/1776, **art. 2(1)(2)**
- C30** S. 62: power to amend conferred (9.6.1997) by 1997 c. 32, **s. 32(5)(b)(i)**; S.I. 1997/1427, **art. 2(g)**.

#### Marginal Citations

- M6** 1986 c. 45.
- M7** 1985 c. 66.
- M8** 1978 c. 23.
- M9** 1986 c. 45.

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*Changes to legislation: There are currently no known outstanding effects for the Banking Act 1987 (repealed), Part II. (See end of Document for details)*

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### *Repayments in respect of contributions*

#### **63 Repayments in respect of contributions. U.K.**

- (1) Any money received by the Board under section 62 above (“recovered money”) shall not form part of the Fund but, for the remainder of the financial year of the Board in which it is received, shall be placed by the Board in an account with the Bank which shall as far as possible invest the money in Treasury bills; and any income arising from the money so invested during the remainder of the year shall be credited to the Fund.
- (2) The Board shall prepare a scheme for the making out of recovered money of repayments to institutions in respect of—
  - (a) special contributions; and
  - (b) so far as they are not attributable to an increase in the size of the Fund resulting from an order under subsection (2) of section 54 above, further contributions levied under that section,

which have been made in the financial year of the Board in which the money was received or in any previous such financial year.
- (3) A scheme under subsection (2) above—
  - (a) shall provide for the making of repayments first in respect of special contributions and then, if those contributions can be repaid in full (taking into account any previous repayments under this section and under section 55(2) above) in respect of further contributions;
  - (b) may make provision for repayments in respect of contributions made by an institution which has ceased to be a contributory institution to be made to a contributory institution which, in the opinion of the Board, is its successor; and
  - (c) subject to paragraph (b) above, may exclude from the scheme further contributions levied from institutions which have ceased to be contributory institutions.
- (4) Except where special or further contributions can be repaid in full, repayments to institutions under this section shall be made pro rata according to the amount of the special or further contribution made by each of them.
- (5) If at the end of a financial year of the Board in which recovered money is received by it—
  - (a) that money; and
  - (b) the amount standing to the credit of the Fund, after any repayments made under section 55 above,

exceeds the maximum amount for the time being specified in section 54 (1) above the Board shall as soon as practicable make out of the recovered money, up to an amount not greater than the excess, the repayments required by the scheme under subsection (2) above and may out of the recovered money make such further repayments required by the scheme as will not reduce the amounts mentioned in paragraphs (a) and (b) above below the minimum amount for the time being specified in section 54(1) above.
- (6) If in any financial year of the Board—
  - (a) any of the recovered money is not applied in making payments in accordance with subsection (5) above; or

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*Changes to legislation: There are currently no known outstanding effects for the Banking Act 1987 (repealed), Part II. (See end of Document for details)*

- (b) the payments made in accordance with that subsection are sufficient to provide for the repayment in full of all the contributions to which the scheme relates, any balance of that money shall be credited to the Fund.

**Modifications etc. (not altering text)**

- C31** S. 63: power to apply conferred (9.6.1997) by 1997 c. 32, s. 32(2); S.I. 1997/1427, art. 2(g).  
**C32** S. 63: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, art. 2(g).

*Supplementary provisions*

**64 Borrowing powers. U.K.**

- (1) If in the course of operating the Fund it appears to the Board desirable to do so, the Board may borrow up to a total outstanding at any time of [<sup>F52</sup>£50 million] or such larger sum as, after consultation with the Board, the Treasury may from time to time by order prescribe.
- (2) An order under subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any amount borrowed by virtue of this section shall be disregarded in ascertaining the amount standing to the credit of the Fund for the purposes of sections 54 (1), 55 (2) and 63 (5) above.

**Textual Amendments**

- F52** Words in s. 64(1) inserted (01.10.1991) by S.I. 1989/2405 (N.I. 19), art. 381(2), Sch. 9 para. 53; S.R. 1991/411, art.2

**Modifications etc. (not altering text)**

- C33** S. 64: power to apply conferred (9.6.1997) by 1997 c. 32, s. 32(2); S.I. 1997/1427, art. 2(g).  
**C34** S. 64: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, art. 2(g).

**65 Power to obtain information. U.K.**

- (1) If required to do so by a request in writing made by the Board, the [<sup>F53</sup>Authority] may by notice in writing served on a contributory institution require the institution, within such time and at such place as may be specified in the notice, to provide the Board with such information and to produce to it such documents, or documents of such a description, as the Board may reasonably require for the purpose of determining the contributions of the institution under this Part of this Act.
- [<sup>F54</sup>(2) Subsections (4), (5), (11) and (13) of section 39 above shall have effect in relation to any requirement imposed under subsection (1) above on a UK institution or participating non-EEA institution as they have effect in relation to a requirement imposed under this section.]
- (3) The Board may by notice in writing served on [<sup>F55</sup>an insolvent institution or, where a person has been appointed as liquidator or administrator of such an institution, on

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that person, require the institution or person], at such time or times and at such place as may be specified in the notice—

- (a) to provide the Board with such information; and
- (b) to produce to the Board such documents specified in the notice,

as the Board may reasonably require to enable it to carry out its functions under this Part of this Act.

- (4) Where, as a result of an institution [<sup>F56</sup>being wound up], any documents have come into the possession of the Official Receiver or, in Northern Ireland, [<sup>F56</sup>the Official Receiver for Northern Ireland], he shall permit any person duly authorised by the Board to inspect the documents for the purpose of establishing—
  - (a) the identity of those of the institution's depositors to whom the Board are liable to make a payment under section 58 above; and
  - (b) the amount of the protected deposit held by each of the depositors.

#### Textual Amendments

- F53** Word in s. 65(1) substituted (1.6.1998) by 1998 c. 11, s. 23, **Sch. 5 Pt. I Ch. I para. 14**; S.I. 1998/1120, **art. 2**
- F54** S. 65(2) substituted (1.7.1995) by S.I. 1995/1442, **regs. 35(1)**, 53(1), 54(2)
- F55** Words in s. 65(3) substituted (1.7.1995) by S.I. 1995/1442, **regs. 35(2)**, 53(1), 54(2)
- F56** Words in s. 65(4) substituted (1.7.1995) by S.I. 1995/1442, **regs. 35(3)**, 53(1), 54(2)

#### Modifications etc. (not altering text)

- C35** S. 65: power to apply conferred (9.6.1997) by 1997 c. 32, **s. 32(2)**; S.I. 1997/1427, **art. 2(g)**.
- C36** S. 65: power to repeal conferred (9.6.1997) by 1997 c. 32, **s. 32(5)(a)**; S.I. 1997/1427, **art. 2(g)**.

## 66 Tax treatment of contributions and repayments. **U.K.**

In computing for the purposes of the Tax Acts the profits or gains arising from the trade carried on by a contributory institution—

- (a) to the extent that it would not be deductible apart from this section, any sum expended by the institution in paying a contribution to the Fund may be deducted as an allowable expense;
- (b) any payment which is made to the institution by the Board under section 55 (2) above or pursuant to a scheme under section 63 (2) above shall be treated as a trading receipt.

#### Modifications etc. (not altering text)

- C37** S. 66: power to apply conferred (9.6.1997) by 1997 c. 32, **s. 32(2)**; S.I. 1997/1427, **art. 2(g)**.
- C38** S. 66: power to repeal conferred (9.6.1997) by 1997 c. 32, **s. 32(5)(a)**; S.I. 1997/1427, **art. 2(g)**.

**Status:**

Point in time view as at 20/08/1999.

**Changes to legislation:**

There are currently no known outstanding effects for the Banking Act 1987 (repealed), Part II.