



Banking Act 1987 (repealed)

1987 CHAPTER 22

PART II

THE DEPOSIT PROTECTION SCHEME

Payments out of the Fund

58 Compensation payments to depositors.

[^{F1}(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 [^{F2}Authority]] may in exceptional circumstances allow.

Status: Point in time view as at 26/09/1998. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Banking Act 1987 (repealed), Section 58. (See end of Document for details)

- (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) [^{F3}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) ^{F4}. . . 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.
- [^{F5}(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.]
- [^{F6}(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 [^{F7}subsection (1)] above so as to substitute for the fraction for the time being specified in [^{F7}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 [^{F8}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 [^{F9}section 26 or 301] of the ^{M1}Insolvency Act 1986;
- (iii) to be a commissioner under section 30 of the ^{M2}Bankruptcy (Scotland) Act 1985; and
- (iv) to be a member of a committee established for the purposes of Part IV or V of the ^{M3}Insolvency Act 1986 under section 101 of that Act or under section 141 or 142 of that Act ^{F10} . . .
- ^{F11}(v) to be a member of any committee established under [^{F12}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.
- ^{F13}(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

F1 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)

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- F2** 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**
- F3** Words in s. 58(3) substituted (1.7.1995) by S.I. 1995/1442, **regs. 30(2)(a)**, 53(1), 54(2)
- F4** Words in s. 58(3) omitted (1.7.1995) by virtue of S.I. 1995/1442, **regs. 30(2)(b)**, 53(1), 54(2)
- F5** S. 58(5) substituted (26.9.1998) by S.I. 1998/2169, **reg. 4**
- F6** S. 58(6) substituted (1.7.1995) by S.I. 1995/1442, **regs. 30(4)**, 53(1), 54(2)
- F7** Words in s. 58(7) substituted (1.7.1995) by S.I. 1995/1442, **regs. 30(5)**, 53(1), 54(2)
- F8** Words in s. 58(8)(a) inserted (1.7.1995) by S.I. 1995/1442, **regs. 30(6)(a)**, 53(1), 54(2)
- F9** Words in s. 58(8)(b)(ii) substituted (1.7.1995) by S.I. 1995/1442, **regs. 30(6)(b)**, 53(1), 54(2)
- F10** 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**
- F11** 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**
- F12** Words in s. 58(8)(b)(v) substituted (1.7.1995) by S.I. 1995/1442, **regs. 30(6)(c)**, 53(1), 54(2)
- F13** S. 58(10) substituted (1.7.1995) by S.I. 1995/1442, **regs. 30(7)**, 53(1), 54(2)

Modifications etc. (not altering text)

- C1** S. 58 amended (1.1.1993) by S.I. 1992/3218, reg. 47, **Sch. 8 para. 15**.
- C2** 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

- M1** 1986 c. 45.
- M2** 1985 c. 66.
- M3** S.I. 1986/1032 (N.I. 6).

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