



Banking Act 1987

1987 CHAPTER 22

PART II

THE DEPOSIT PROTECTION SCHEME

Payments out of the Fund

62 Liability of institution in respect of compensation payments

(1) This section applies where—

- (a) an institution becomes insolvent or an administration order is in force in relation to it; 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 or of the making of that order;

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 that is insolvent—

- (a) the institution shall become liable to the Board, as in respect of a contractual debt incurred immediately before the institution became insolvent, 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

Status: This is the original version (as it was originally enacted).

(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 in relation to which an administration order is in force—
- (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.
- (5) Where an institution becomes insolvent after an administration order has been in force in relation to it 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 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 Bankruptcy (Scotland) Act 1985, by the Secretary of State under this subsection; and
 - (c) for Northern Ireland, under Article 613 of the Companies (Northern Ireland) Order 1986 and section 65 of the 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 Insolvency Act 1986.