



Banking Act 2009

2009 CHAPTER 1

PART 1

SPECIAL RESOLUTION REGIME

[^{F1}CHAPTER 3

SPECIAL RESOLUTION ACTION]

[^{F1}Groups]

Textual Amendments

- F1** S. 82 cross-heading substituted (1.8.2014) by [Financial Services Act 2012 \(c. 21\)](#), ss. [100\(5\)](#), [122\(3\)](#) (with [Sch. 20](#)); [S.I. 2014/1847](#), art. 2

[^{F2}81AA.Cases where mandatory write-down, conversion etc applies: banking group companies

- (1) Section 6B (mandatory write-down, conversion, etc. of capital instruments) applies in relation to a banking group company in the cases set out in subsections (2), (4) and (8).
- (2) Case 1 is where—
 - (a) the conditions imposed by section 81B or 81ZBA on the exercise of a stabilisation power in accordance with section 11(2), 12(2) or 12ZA(3) are met in respect of the banking group company,
 - (b) the Bank of England has decided to exercise the stabilisation power,
 - (c) if the banking group company—
 - (i) is a financial institution which is a subsidiary of an institution (within the meaning of article 2.1(23) of the recovery and resolution directive) (“the parent institution”), but

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- (ii) is not an entity within Article 1.1(c) or (d) of that directive, the requirements of subsection (3) are met, and
 - (d) section 12AA (mandatory write-down etc in bail-in cases) does not apply in relation to the banking group company by virtue of the exercise of a power under section 81BA (bail-in: banking group company).
- (3) For the purposes of subsection (2)(c)—
- (a) the first requirement is that—
 - (i) the appropriate authority is satisfied that Condition 1 in section 7 is met in relation to the banking group company, and
 - (ii) the Bank of England is satisfied that Conditions 2, 3 and 4 of that section are met in relation to that company;
 - (b) the second requirement is that—
 - (i) where the parent institution is a bank, the PRA is satisfied that Condition 1 in section 7 is met, and the Bank of England is satisfied that Conditions 2, 3 and 4 in that section are met in relation to the parent institution,
 - (ii) where the parent institution is a EU institution, subsection (6) applies in relation to the banking group company by reason of the EU institution, and
 - (iii) where the parent institution is a third-country institution, subsection (7) applies in relation to the banking group company by reason of that third country institution.
- (4) Case 2 is where—
- (a) the appropriate authority is satisfied that Condition 1 in section 7 is met in respect of the banking group company,
 - (b) the Bank of England is satisfied that—
 - (i) (ignoring section 6B) Condition 2 in section 7 is met, and
 - (ii) that Condition will continue to be met unless the action required by section 6B is taken in respect of the banking group company, and
 - (c) one of subsections (5), (6) or (7) apply in relation to the banking group company.
- (5) This subsection applies in relation to the banking group company if—
- (a) the PRA is satisfied that Condition 1 in section 7 is met in respect of a bank to which section 81D(1)(a) applies, and
 - (b) the Bank of England is satisfied that (ignoring section 6B) Condition 2 in section 7 is met in relation to that bank.
- (6) This subsection applies in relation to the banking group company if the EU resolution authority or competent authority has determined that—
- (a) the conditions for exercise of the power to write down or convert capital instruments set out in Article 59.3 of the recovery and resolution directive, or
 - (b) the conditions for resolution set out in Article 32.1(a) and (b) of the recovery and resolution directive,
- are satisfied in relation to an EU institution to which section 81D(1)(a) applies.
- (7) This subsection applies in relation to the banking group company if the relevant third-country authority has determined that any conditions required by the law of the third country to be met before—

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- (a) any power for the relevant third country authority to write down or convert capital instruments provided for under the law of that third country may be exercised, or
 - (b) third-country resolution action may be taken,are met in relation to a third-country institution to which section 81D(1)(a) applies.
- (8) Case 3 is where—
 - (a) extraordinary public financial support is required by the banking group company other than in circumstances where subsection (5E) of section 7 applies by virtue of paragraph (c) of that subsection, and
 - (b) the Bank of England is satisfied, on the basis of the valuation carried out in accordance with section 6E, that, in order for a bank or EU institution which is a member of the same group as the banking group company to fulfil its own funds requirements, relevant capital instruments of the banking group company need to be written down or converted into Common Equity Tier 1 instruments (or both).
- (9) For the purposes of determining if the matters set out in subsections (3) to (7) are satisfied, the FCA, PRA, Bank of England, EU resolution authority, competent authority or relevant third-country authority (as the case may be) may ignore any transfer of losses or capital made between members of the group.
- (10) For the purposes of subsections (3)(a) and (b), (4), (5) and (8)—
 - (a) references in section 7 to the bank are to be read—
 - (i) in the case of subsections (3)(a) and (b), (4) and (5), as references to the banking group company, and
 - (ii) in the case of subsection (8), as references to the banking group company or the parent institution (as the case may be), and
 - (b) section 7(5C)(a) is to be ignored in determining whether Condition 1 in that section is met in relation to the banking group company where that company is not a UK authorised person.
- (11) For the purposes of subsections (3), (4) and (5), the “appropriate authority” means—
 - (a) in the case of a banking group company which is a PRA-authorised person, the PRA;
 - (b) in the case of a banking group company which is a UK authorised person but not a PRA-authorised person, the FCA;
 - (c) in the case of a banking group company which is not an UK authorised person—
 - (i) if the PRA is the consolidating supervisor of the group, the PRA;
 - (ii) if the FCA is the consolidating supervisor of the group, the FCA;
 - (iii) if neither paragraph (i) nor paragraph (ii) apply, but there is a PRA-authorised person in the group, the PRA; and
 - (iv) in all other cases, the Bank of England.
- (12) Where the PRA is the “appropriate authority” under subsection (11) in relation to a banking group company in the same group as a UK authorised person which is not a PRA-authorised person, the PRA must consult the FCA before making any decision as to whether the conditions referred to in subsection (3)(a), (4)(a) or (5)(a) (the “relevant conditions”) are satisfied.

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- (13) Where the FCA is the “appropriate authority” under subsection (11) in relation to a banking group company in the same group as a PRA-authorized person, the FCA must consult the PRA before making any decision as to whether the relevant conditions are satisfied.
- (14) For the purposes of this section—
- “competent authority” has the meaning given in Article 2.1(21) of the recovery and resolution directive;
 - “consolidating supervisor” means a consolidating supervisor as defined in Article 4.1(41) of the capital requirements regulation;
 - “EU institution” means an institution within the meaning of Article 2.1(23) of the recovery and resolution directive which is incorporated in, or formed under the law of any part of, an EEA state other than the United Kingdom;
 - “EU resolution authority” means a resolution authority within the meaning given by Article 2.1(18) of the recovery and resolution directive (other than the Bank of England);
 - “financial institution” has the meaning given by Article 2.1(4) of the recovery and resolution directive;
 - “PRA-authorized person” has the meaning given in section 2B(5) of the Financial Services and Markets Act 2000;
 - “relevant third-country authority” has the meaning given by Article 2.1(90) of the recovery and resolution directive;
 - “third-country institution” has the meaning given in section 89H(7);
 - “third-country resolution action” has the meaning given in section 89H(7);
 - “UK authorised person” has the same meaning as in section 105(8) of the Financial Services and Markets Act 2000.]

Textual Amendments

F2 S. 81AA inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), 89

[^{F3}81B Sale to commercial purchaser and transfer to bridge bank

- (1) The Bank of England may exercise a stabilisation power in respect of a banking group company in accordance with section 11(2) or 12(2) if the following conditions are met.
- [^{F4}(2) Condition 1 is that—
- (a) the PRA is satisfied that Condition 1 of the general conditions is met in respect of a bank in the same group and the Bank of England is satisfied that Conditions 2, 3 and 4 of the general conditions are met in respect of that bank, or
 - (b) the EU resolution authority of an EU institution in the same group is satisfied that the conditions for resolution set out in Article 32.1 of the recovery and resolution directive are met in relation to that EU institution, or
 - (c) a relevant third-country authority of a third-country institution in the same group is satisfied that any conditions required by the law of the third country to be met before third-country resolution action may be taken are met in relation to that third-country institution.

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- (2A) For the purposes of determining if a requirement of Condition 1 is met, the PRA, Bank of England, EU resolution authority or relevant third-country authority (as the case may be) may ignore any transfer of losses or capital made between members of the group.]
- (3) Condition 2 (which does not apply in a financial assistance case) is that the Bank of England is satisfied that the exercise of the power in respect of the banking group company is necessary, having regard to the [^{F5}public interest in the advancement of one or more of the special resolution objectives.]
- (4) Condition 3 (which applies only in a financial assistance case) is that—
- (a) the Treasury have recommended the Bank of England to exercise a stabilisation power on the grounds that it is necessary to protect the public interest, and
 - (b) in the Bank's opinion, exercise of the power in respect of the banking group company is an appropriate way to provide that protection.
- (5) Condition 4 is that the banking group company is an undertaking incorporated in, or formed under the law of any part of, the United Kingdom.
- (6) Before determining whether Condition 2 or 3 (as appropriate) is met, the Bank of England must consult—
- (a) the Treasury,
 - (b) the PRA, and
 - (c) the FCA.
- (7) In exercising a stabilisation power in reliance on this section the Bank of England must have regard to the need to minimise the effect of the exercise of the power on other undertakings in the same group.
- (8) In this section “financial assistance case” means a case in which the Treasury notify the Bank of England that they have provided financial assistance in respect of a bank in the same group for the purpose of resolving or reducing a serious threat to the stability of the financial systems of the United Kingdom.

[In this section—

- ^{F6}(9) “EU institution” has the meaning given by section 81AA(14);
- “EU resolution authority” means a resolution authority within the meaning given by Article 2.1(18) of the recovery and resolution directive (other than the Bank of England);
- “the general conditions” means the general conditions for the exercise of a stabilisation power set out in section 7;
- “relevant third-country authority” has the meaning given by Article 2.1(90) of the recovery and resolution directive;
- “third-country institution” has the meaning given by section 89H(7);
- “third-country resolution action” has the meaning given by section 89H(7).]

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Textual Amendments

- F3** Ss. 81B-81D inserted (5.6.2014 for specified purposes, 1.8.2014 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 100(5)**, 122(3) (with Sch. 20); S.I. 2014/1447, art. 2(b); S.I. 2014/1847, art. 2
- F4** S. 81B(2)(2A) substituted for s. 81B(2) (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **90(2)**
- F5** Words in s. 81B(3) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **90(3)**
- F6** S. 81B(9) inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **90(4)**

81ZBA. Transfer to asset management vehicle

- (1) The Bank of England may exercise a stabilisation power in respect of a banking group company in accordance with section 12ZA(3) if the following conditions are met.
- (2) Condition 1 is that—
- (a) the PRA is satisfied that Condition 1 of the general conditions is met in respect of a bank in the same group and the Bank of England is satisfied that Conditions 2, 3 and 4 of the general conditions are met in respect of that bank, or
 - (b) the resolution authority of an EU institution in the same group is satisfied that the conditions for resolution set out in Article 32.1 of the recovery and resolution directive are met in relation to that EU institution, or
 - (c) a relevant third-country authority of a third-country institution in the same group is satisfied that any conditions required by the law of the third country to be met before third-country resolution action may be taken are met in relation to that third-country institution.
- (2A) For the purposes of determining if a requirement of Condition 1 is met, the PRA, Bank of England, EU resolution authority or relevant third-country authority (as the case may be) may ignore any transfer of losses or capital made between members of the group.
- (3) Condition 2 is that the power is exercised in connection with the exercise of one or more stabilisation powers in respect of the banking group company otherwise than for the purposes of the third stabilisation option.
- (4) Condition 3 (which does not apply in a financial assistance case) is that the Bank of England is satisfied that the exercise of the power in respect of the banking group company is necessary having regard to the public interest in the advancement of one or more of the special resolution objectives.
- (5) Condition 4 (which applies only in a financial assistance case) is that—
- (a) the Treasury have recommended the Bank of England to exercise a stabilisation power on the grounds that it is necessary to protect the public interest, and
 - (b) in the Bank of England’s opinion, exercise of the power in respect of the banking group company is an appropriate way to provide that protection.
- (6) Condition 5 is that the banking group company is an undertaking incorporated in, or formed under the law of any part of, the United Kingdom.

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- (7) Condition 6 is that the Bank of England is satisfied that—
- (a) the situation of the market for the assets which it is proposed to transfer by the exercise of the stabilisation power is of such a nature that the liquidation of those assets under normal insolvency proceedings could have an adverse effect on one or more financial markets,
 - (b) the transfer is necessary to ensure the proper functioning of the banking group company from which the transfer is to be made, or
 - (c) the transfer is necessary to maximise the proceeds available for distribution.
- (8) Before determining whether Conditions 2 and 5 and Condition 3 or 4 (as appropriate) are met, and if so how to react, the Bank of England must consult—
- (a) the PRA,
 - (b) the FCA, and
 - (c) the Treasury.
- (9) For the purposes of this section—
- “financial assistance case” has the meaning given by section 81B(8);
 - “normal insolvency proceedings” has the meaning given in Article 2.1(47) of the recovery and resolution directive (and, in particular, includes the bank insolvency procedure and the bank administration procedure);
 - and the definitions in section 81B(9) apply..]

Textual Amendments

- F3** Ss. 81B-81D inserted (5.6.2014 for specified purposes, 1.8.2014 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 100(5), 122(3)** (with [Sch. 20](#)); [S.I. 2014/1447](#), [art. 2\(b\)](#); [S.I. 2014/1847](#), [art. 2](#)
- F7** S. 81ZBA inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), [arts. 1\(2\)](#), **91**

^{F8}81BA **Bail-in option**

- (1) The Bank of England may exercise a stabilisation power in respect of a banking group company in accordance with section 12A(2) if the following conditions are met.
- [^{F9}(2) Condition 1 is that either—
- (a) the PRA is satisfied that Condition 1 of the general conditions is met in respect of a bank in the same group and the Bank of England is satisfied that Conditions 2, 3 and 4 of the general conditions are met in respect of that bank, or
 - (b) the resolution authority of an EU institution in the same group is satisfied that the conditions for resolution set out in Article 32.1 of the recovery and resolution directive are met in relation to that EU institution, or
 - (c) a relevant third-country authority of a third-country institution in the same group is satisfied that any conditions required by the law of the third country to be met before third-country resolution action may be taken are met in relation to that third-country institution.
- (2A) For the purposes of determining if a requirement of Condition 1 is met, the PRA, Bank of England, EU resolution authority or relevant third-country authority (as the case

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may be) may ignore any transfer of losses or capital made between members of the group.]

- (3) Condition 2 is that the Bank of England is satisfied that the exercise of the power in respect of the banking group company is necessary, having regard to the [^{F10}public interest in the advancement of one or more of the special resolution objectives.]
- (4) Condition 3 is that the banking group company is an undertaking incorporated in, or formed under the law of any part of, the United Kingdom.
- (5) Before determining whether Condition 2 is met, and if so how to react, the Bank of England must consult—
 - (a) the Treasury,
 - (b) the PRA, and
 - (c) the FCA.
- (6) In exercising a stabilisation power in reliance on this section the Bank of England must have regard to the need to minimise the effect of the exercise of the power on other undertakings in the same group.

[The definitions in section 81B(9) apply for the purposes of this section.]]
^{F11}(7)

Textual Amendments

- F3** Ss. 81B-81D inserted (5.6.2014 for specified purposes, 1.8.2014 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 100(5)**, 122(3) (with [Sch. 20](#)); [S.I. 2014/1447](#), [art. 2\(b\)](#); [S.I. 2014/1847](#), [art. 2](#)
- F8** S. 81BA inserted (31.12.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [s. 148\(5\)](#), **Sch. 2 para. 7(1)**; [S.I. 2014/3160](#), [art. 2\(1\)\(b\)](#)
- F9** S. 81BA(2)(2A) substituted for s. 81BA(2) (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), [arts. 1\(2\)](#), **92(2)**
- F10** Words in s. 81BA(3) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), [arts. 1\(2\)](#), **92(3)**
- F11** S. 81BA(7) inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), [arts. 1\(2\)](#), **92(4)**

81C Section 81B [^{F12}or 81ZBA]: supplemental

- (1) In the following provisions references to banks include references to banking group companies—
 - (a) section 10(1), ^{F13}...
 - [section 48Z, and]
 - ^{F14}(aa)
 - (b) section 75(5)(a).

[Where section 6B applies to a banking group company by virtue of section 81AA, ^{F15}(1A) sections 6B to 6D apply with the following modifications—

- (a) references to the bank are to be read as references to the banking group company,
- (b) in section 6B, in subsection (8) the reference to section 6A is to be read as a reference to section 81AA and subsection (9) is to be ignored,

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- (c) in sections 6B and 6C references, which (by virtue of paragraph (a)) are read as references to a UK parent undertaking of a banking group company, include, where the banking group company satisfied section 81D(1)(a) by reference to a bank which is not a UK parent undertaking of the banking group company, a reference to that bank,
 - (d) for the purposes of section 6D, references to a bank in sections 48L(3), 48O and 48T are to be read as references to the banking group company, and, where the banking group company satisfied section 81D(1)(a) by reference to a bank (“the failing bank”), those references to a bank (except the first reference in section 48T(1)) are also to be read as including a reference to the failing bank.
- (1B) Where the Bank of England makes a mandatory reduction instrument in respect of a banking group company, section 6E applies (with any necessary modifications) as if the banking group company were a bank.]
- (2) Where the Bank of England exercises a stabilisation power in respect of a banking group company in reliance on section 81B [^{F16}or 81ZBA], the provisions relating to the stabilisation powers and the bank administration procedure contained in this Act (except sections 7 [^{F17}, 8 and 8ZA]) and any other enactment apply (with any necessary modifications) as if the banking group company were a bank.
- (3) For the purposes of the application of section 143 (grounds for applying for bank administration order), the reference in subsection (2) to the Bank of England exercising a stabilisation power includes a case where the Bank of England intends to exercise such a power.

Textual Amendments

- F3** Ss. 81B-81D inserted (5.6.2014 for specified purposes, 1.8.2014 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), ss. 100\(5\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2014/1447, art. 2\(b\)](#); [S.I. 2014/1847, art. 2](#)
- F12** Words in s. 81C heading inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), [93\(5\)](#)
- F13** Word in s. 81C(1)(a) omitted (1.1.2015) by virtue of [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), [93\(2\)\(a\)](#)
- F14** S. 81C(1)(aa) inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), [93\(2\)\(b\)](#)
- F15** S. 81C(1A)(1B) inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), [93\(3\)](#)
- F16** Words in s. 81C(2) inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), [93\(4\)\(a\)](#)
- F17** Words in s. 81C(2) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), [93\(4\)\(b\)](#)

^{F18}81CA Section 81BA: supplemental

- (1) This section applies where the Bank of England has power under section 81BA to exercise a stabilisation power in respect of a banking group company.
- (2) The provisions relating to the stabilisation powers and the bank administration procedure contained in this Act (except [^{F19}section 7]) and any other enactment apply (with any necessary modifications) as if the banking group company were a bank.

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- (3) Where the banking group company mentioned in subsection (1) is a parent undertaking of the bank mentioned in section 81BA(2) (“the bank”)—
- (a) the provisions in this Act relating to resolution instruments are to be read in accordance with the general rule in subsection (4), but
 - (b) that is subject to the modifications in subsection (5);
- and provisions in this Act and any other enactment are to be read with any modifications that may be necessary as a result of paragraphs (a) and (b).
- (4) The general rule is that the provisions in this Act relating to resolution instruments (including supplemental resolution instruments) are to be read (so far as the context permits)—
- (a) as applying in relation to the bank as they apply in relation to the parent undertaking, and
 - (b) so, in particular, as allowing any provision that may be made in a resolution instrument in relation to the parent undertaking to be made (also or instead) in relation to the bank.
- (5) Where the banking group company mentioned in subsection (1) is a parent undertaking of the bank^[F20], EU institution or third-country institution mentioned in section 81BA(2) (“the group entity”) —
- (a) section 41A (transfer of property subsequent to resolution instrument) applies as if the reference in subsection (2) to the bank were to the parent undertaking, the bank and any other bank which is or was in the same group;
 - (b) section 48V (onward transfer)—
 - (i) applies as if the references in subsection (3) to “the bank” ^[F21]included the group entity,] the parent undertaking and any other bank which is or was in the same group, and with the omission of subsection (4) of that section, and
 - (ii) is to be read as permitting the transfer of securities only if they are held by (or for the benefit of) the parent undertaking or a subsidiary company of the parent undertaking;
 - (c) section 48W (reverse transfer) applies as if the references in subsections (2) and (3) to “the bank” ^[F22]included the group entity,] the parent undertaking and any other bank which is or was in the same group.
- (6) Where section 48B (special bail-in provision) applies in accordance with subsection (4) (so that section 48B applies in relation to the bank mentioned in section 81BA(2) as it applies in relation to the parent undertaking mentioned in subsection (3)), the provision that may be made in accordance with section 48B(1)(b) (see also rule 3(a) and (b) of section 48B(5)) includes provision replacing a liability (of any form) of that bank with a security (of any form or class) of the parent undertaking.
- (7) Where the banking group company mentioned in subsection (1) is a parent undertaking of the bank mentioned in section 81BA(2)—
- (a) section 214B of the Financial Services and Markets Act 2000 (contribution to costs of special resolution regime) applies, and
 - (b) the reference in subsection (1)(b) of that section to the bank, and later references in that section, are treated as including references to any other bank which is a subsidiary undertaking of the parent undertaking (but not the parent undertaking itself).]

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Textual Amendments

- F3** Ss. 81B-81D inserted (5.6.2014 for specified purposes, 1.8.2014 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 100(5)**, 122(3) (with [Sch. 20](#)); S.I. 2014/1447, art. 2(b); S.I. 2014/1847, art. 2
- F18** S. 81CA inserted (31.12.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), **Sch. 2 para. 7(2)**; S.I. 2014/3160, art. 2(1)(b)
- F19** Words in s. 81CA(2) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **94(2)**
- F20** Words in s. 81CA(5) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **94(3)(a)**
- F21** Words in s. 81CA(5)(b)(i) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **94(3)(b)**
- F22** Words in s. 81CA(5)(c) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **94(3)(c)**

81D Interpretation: “banking group company” &c.

- (1) In this Part “banking group company” means an undertaking—
- which is (or, but for the exercise of a stabilisation power, would be) in the same group as a bank [^{F23}EU institution or third-country institution (within the meaning of section 81B(9))], and
 - in respect of which any conditions specified in an order made by the Treasury are met.
- (2) An order may require the Bank of England to consult specified persons before determining whether the conditions are met.
- (3) An order—
- is to be made by statutory instrument, and
 - may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (4) If an order contains a statement that the Treasury are of the opinion that, by reason of urgency, it is necessary to make the order without complying with subsection (3)(b)—
- the order may be made, and
 - the order lapses unless approved by resolution of each House of Parliament during the period of 28 days (ignoring periods of dissolution, prorogation or adjournment of either House for more than 4 days) beginning with the day on which the order is made.
- (5) The lapse of an order under subsection (4)(b)—
- does not invalidate anything done under or in reliance on the order before the lapse and at a time when neither House has declined to approve the order, and
 - does not prevent the making of a new order (in new terms).
- (6) Undertakings are in the same group for the purposes of sections [^{F24}81AA to 81CA] and this section if they are group undertakings in respect of each other.
- (7) Expressions defined in the Companies Act 2006 have the same meaning in [^{F25}sections 81B to 81CA] and this section as in that Act.]

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Textual Amendments

- F3** Ss. 81B-81D inserted (5.6.2014 for specified purposes, 1.8.2014 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 100(5)**, [122\(3\)](#) (with [Sch. 20](#)); [S.I. 2014/1447](#), [art. 2\(b\)](#); [S.I. 2014/1847](#), [art. 2](#)
- F23** Words in s. 81D(1)(a) inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), [arts. 1\(2\)](#), **95(2)**
- F24** Words in s. 81D(6) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), [arts. 1\(2\)](#), **95(3)**
- F25** Words in s. 81D(7) substituted (31.12.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [s. 148\(5\)](#), **Sch. 2 para. 7(3)(b)**; [S.I. 2014/3160](#), [art. 2\(1\)\(b\)](#)

82 Temporary public ownership

- (1) The Treasury may take a parent undertaking of a bank (the “holding company”) into temporary public ownership, in accordance with section 13(2), if the following conditions are met.
- (2) Condition 1 is that [^{F26}the PRA is] satisfied that the general conditions for the exercise of a stabilisation power set out in section 7 are met in respect of the bank.
- (3) Condition 2 is that the Treasury are satisfied that it is necessary to take action in respect of the holding company for the purpose specified in Condition A or B of section 9.
- (4) Condition 3 is that the holding company is an undertaking incorporated in, or formed under the law of any part of, the United Kingdom.
- (5) Before determining whether Condition 2 is met the Treasury must consult—
 - [^{F27}(a) the PRA,
 - (aa) the FCA, and]
 - (b) the Bank of England.
- (6) Expressions used in this section have the same meaning as in the Companies Act 2006.

Textual Amendments

- F26** Words in s. 82(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), **Sch. 17 para. 27(2)** (with [Sch. 20](#)); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F27** S. 82(5)(a)(aa) substituted for s. 82(5)(a) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), **Sch. 17 para. 27(3)** (with [Sch. 20](#)); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

Commencement Information

- I1** S. 82 in force at 21.2.2009 by [S.I. 2009/296](#), [art. 3](#), **Sch. para. 1**

83 Supplemental

- (1) In the following provisions references to banks include references to holding companies—
 - (a) section 10(1),
 - [^{F28}(aa) section 12ZA(2)(c),]
 - (b) section 13(3),

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- (c) section 16(1), and
 - (d) section 75(5)(a).
- (2) Where the Treasury take a bank's holding company into temporary public ownership in reliance on section 82—
- (a) section 20(2) applies to (i) directors of the holding company, (ii) directors of the bank, and (iii) directors of a bank in the same group,
 - (b) section 25(2) applies as if references to a bank were references to a holding company,
 - (c) sections 27 to 29 apply as if references to a bank were references to a holding company,
 - (d) a share transfer may be made in respect of securities which were issued by the bank or by another bank which is or was in the same group; and a transfer—
 - (i) shall be made by onward share transfer order under section 28 or by reverse share transfer order under section 29 (in addition to any that may be made under those sections as applied by paragraph (c) above),
 - (ii) may be made under section 28 only in respect of securities held by (or for the benefit of) the holding company or a subsidiary undertaking of the holding company,
 - (iii) is not subject to section 28(4), [^{F29}and]
 - [^{F30}(iv) is not subject to the restriction in section 29(3) that the securities issued by the bank were transferred under the original order (as defined in section 29(1)).]
 - (e) section 45 applies as if—
 - (i) the reference to a bank in subsection (1) were a reference to a holding company, and
 - (ii) a reference to the bank in subsection (3) were a reference to the holding company, the bank and any other bank which is or was in the same group,
 - (f) sections 65 to 68 apply, with—
 - (i) references to the bank or the transferred bank taken as references to the bank, the holding company and any other bank which is or was in the same group, and
 - (ii) references to securities of the bank taken as including references to securities of the holding company (so that, in particular, sections 65(1)(a)(ii) and 68(1)(a) include references to the earlier transfer of securities issued by the holding company),
 - (g) other provisions of this Act about share transfer orders apply with any necessary modifications,
 - (h) section 214B of the Financial Services and Markets Act 2000 applies (contribution to costs of special resolution regime^{F31}...), and
 - (i) the reference in section 214B(1)(b) to the bank, and later references in the section, are treated as including references to any other bank which is also a subsidiary undertaking of the holding company (but not to the holding company itself).
- (3) A reference in this Act or another enactment to a share transfer order in respect of securities issued by a bank includes (so far as the context permits) a reference to a share transfer order in respect of securities issued by a holding company.

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- (4) In so far as sections 47 and 60 apply in relation to orders treated as property transfer instruments by virtue of section 45(5)(b) or 46(5)(b) (including those sections as applied by virtue of subsection (2) above) the reference in section 47(1) to the property of a bank includes a reference to the property of a holding company and of any other bank which is or was in the same group.
- (5) Expressions used in this section have the same meaning as in the Companies Act 2006.
- (6) A reference to two banks being in the same group is a reference to their being group undertakings in respect of each other.

Textual Amendments

- F28** S. 83(1)(aa) inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **96(1)**
- F29** Word in s. 83(2)(d)(iii) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 97(10)(a)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F30** S. 83(2)(d)(iv) substituted for s. 83(2)(d)(iv)(v) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 97(10)(b)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F31** Words in s. 83(2)(h) omitted (8.4.2010) by virtue of [Financial Services Act 2010 \(c. 28\)](#), s. 26(1)(l), **Sch. 2 para. 42**

Commencement Information

- I2** S. 83 in force at 21.2.2009 in so far as not already in force by [S.I. 2009/296](#), arts. 2, 3, **Sch. para. 1**

Status:

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Changes to legislation:

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