



Banking Act 2009

2009 CHAPTER 1

PART 8

GENERAL

259 Statutory instruments

- (1) A statutory instrument under this Act—
 - (a) may make provision that applies generally or only for specified purposes, cases or circumstances,
 - (b) may make different provision for different purposes, cases or circumstances, and
 - (c) may include incidental, consequential or transitional provision.
- (2) No statutory instrument under this Act shall be treated as a hybrid instrument under Standing Orders of either House of Parliament.
- (3) The Table lists the powers to make statutory instruments under this Act and the arrangements for Parliamentary scrutiny in each case (which are subject to subsections (4) to (6)).

| <i>Section</i> | <i>Topic</i> | <i>Parliamentary scrutiny</i> |
|----------------------------------|-------------------------|-------------------------------|
| PART 1—Special resolution regime | | |
| 2 | Meaning of “bank” | Draft affirmative resolution |
| 25 | Share transfer orders | Negative resolution |
| 47 | Partial transfers | Draft affirmative resolution |
| 48 | Protection of interests | Draft affirmative resolution |
| 55 | Independent valuer | Negative resolution |

Status: Point in time view as at 01/08/2014. This version of this provision has been superseded.

Changes to legislation: Banking Act 2009, Section 259 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

| | | |
|------------------------|---------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| 56 | Independent valuer: money | Negative resolution |
| 60 | Third party compensation | Draft affirmative resolution |
| 62 | Compensation orders | Draft affirmative resolution |
| 69 | Continuity obligations: consideration and terms | Negative resolution |
| 72 | Transfers: enforcement | Negative resolution |
| 74 | Tax | Draft affirmative resolution (Commons only) |
| 75 | Power to change law | Draft affirmative resolution (except for urgent cases) |
| 78 | Public funds | Negative resolution (Commons only) |
| [^{F1} 81D] | [^{F1} Meaning of “banking group company”] | [^{F1} Draft affirmative resolution (except for urgent cases)] |
| 85 | Building societies: orders | Negative resolution |
| 86 | Building societies: assets | (As for orders under section 90B of the Building Societies Act 1986) |
| 88 | Building societies: consequential | Draft affirmative resolution |
| 89 | Credit unions | Draft affirmative resolution |
| [^{F2} 89F] | [^{F2} [^{F3} Recognised central counterparty] compensation orders] | [^{F2} Draft affirmative resolution] |
| PART 2–Bank insolvency | | |
| 91 | Meaning of “bank” | Draft affirmative resolution |
| 122 | Application of insolvency law | Draft affirmative resolution |
| 125 | Rules | (Expansion of power in section 411 of the Insolvency Act 1986) |
| 130 | Building societies | Draft affirmative resolution |

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| | | |
|-----------------------------------------------|------------------------------------------|----------------------------------------------------------------|
| 131 | Credit unions | Draft affirmative resolution |
| 132 | Partnerships | (As for orders under section 420 of the Insolvency Act 1986) |
| 133 | Scottish partnerships | Negative resolution |
| 135 | Consequential provision | Draft affirmative resolution |
| PART 3—Bank administration | | |
| 148 | Sharing information | Negative resolution |
| 149 | Multiple original transfers | Draft affirmative resolution |
| 152 | Transfer from temporary public ownership | Draft affirmative resolution |
| 156 | Application of other law | Draft affirmative resolution |
| 158 | Building societies | Draft affirmative resolution |
| 159 | Credit unions | Draft affirmative resolution |
| 160 | Rules | (Expansion of power in section 411 of the Insolvency Act 1986) |
| 163 | Partnerships | (As for orders under section 420 of the Insolvency Act 1986) |
| 164 | Scottish partnerships | Negative resolution |
| 168 | Consequential provision | Draft affirmative resolution |
| PART 4—Financial Services Compensation Scheme | | |
| 170 | Contingency funding | Draft affirmative resolution |
| F4 | F4 | F4 |
| ... | ... | ... |
| 173 | Borrowing from National Loans Fund | Negative resolution |
| PART 5—Inter-bank payment systems | | |
| 191 | Bank of England directions: immunity | Negative resolution |
| 203 | Fees regulations | Negative resolution |
| 204 | Information | Negative resolution |

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| | | |
|-------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------------|
| [^{F5} 206A | Services forming part of recognised inter-bank payment systems | Draft affirmative resolution] |
| PART 6—Banknotes: Scotland and Northern Ireland | | |
| 215 | Banknote regulations | Draft affirmative resolution |
| PART 7—Miscellaneous | | |
| 230 | Financial institution | Negative resolution |
| [^{F6} 232(6)] | Investment banks: definition | Draft affirmative resolution |
| [^{F7} 232(7) | Investment banks: definition of investment activity | Negative resolution] |
| 233 | Investment banks: insolvency | Draft affirmative resolution |
| 249 | [^{F8} PRA or FCA—] functions | Draft affirmative resolution |
| 251 | Central banks: assistance to building societies | Draft affirmative resolution |
| 255 | Financial collateral arrangements | Affirmative resolution |
| PART 8—General | | |
| 257 | Financial assistance | Negative resolution |
| [^{F9} 258A] | [^{F9} Meaning of “investment firm”] | [^{F9} Draft affirmative resolution (except for urgent cases)] |
| 262 | Repeal of Banking (Special Provisions) Act 2008 | None |
| 263 | Commencement | None |

(4) A power listed in subsection (5) may be exercised without a draft being laid before and approved by resolution of each House of Parliament if—

- (a) the power is being exercised for the first time, and
- (b) the person exercising it is satisfied that it is necessary to exercise it without laying a draft for approval.

(5) The powers are those in—

- (a) section 2 (special resolution regime: meaning of “bank”),
- (b) section 47 (special resolution regime: partial transfers),
- (c) section 48 (special resolution regime: protection of interests),
- (d) section 60 (special resolution regime: third party compensation),
- (e) section 88 (special resolution regime: building societies: consequential),
- (f) section 91 (bank insolvency: meaning of “bank”),

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- (g) section 122 (bank insolvency: application of insolvency law),
- (h) section 130 (bank insolvency: building societies),
- (i) section 135 (bank insolvency: consequential provision),
- (j) section 149 (bank administration: multiple original transfers),
- (k) section 152 (bank administration: transfer from temporary public ownership),
- (l) section 156 (bank administration: application of other law),
- (m) section 158 (bank administration: building societies),
- (n) section 168 (bank administration: consequential provision), ^{F10} ...
- ^{F10}(o)

(6) Where an instrument is made in reliance on subsection (5)—

- (a) it shall lapse 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 instrument is made,
- (b) the lapse of an instrument under paragraph (a) does not invalidate anything done under or in reliance on it before its lapse and at a time when neither House has declined to approve it, and
- (c) the lapse of an instrument under paragraph (a) does not prevent the making of a new one (in new terms).

Textual Amendments

- F1** Words in s. 259(3) Table 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(6)**, 122(3) (with [Sch. 20](#)); [S.I. 2014/1447](#), art. 2(c); [S.I. 2014/1847](#), art. 2
- F2** Words in s. 259(3) Table inserted (1.8.2014) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 102(7)**, 122(3) (with [Sch. 20](#)); [S.I. 2014/1847](#), art. 2
- F3** Words in s. 259(3) Table substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), 25(3) (with regs. 52-58)
- F4** Words in s. 259(3) Table omitted (8.4.2010) by virtue of [Financial Services Act 2010 \(c. 28\)](#), s. 26(1)(l), **Sch. 2 para. 48(2)**
- F5** Words in s. 259(3) Table inserted (8.4.2010) by [Financial Services Act 2010 \(c. 28\)](#), s. 26(1)(l), **Sch. 2 para. 48(3)**
- F6** Word in s. 259(3) Table substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 17 para. 61(2)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F7** Words in s. 259(3) Table inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 17 para. 61(3)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F8** Words in s. 259(3) Table substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 17 para. 61(4)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F9** Words in s. 259(3) Table 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. 101(8)**, 122(3) (with [Sch. 20](#)); [S.I. 2014/1447](#), art. 2(f); [S.I. 2014/1847](#), art. 2
- F10** S. 259(5)(o) and word omitted (8.4.2010) by virtue of [Financial Services Act 2010 \(c. 28\)](#), s. 26(1)(l), **Sch. 2 para. 48(4)**

Commencement Information

- I1** S. 259 in force at 21.2.2009 by [S.I. 2009/296](#), art. 3, **Sch. para. 14**

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