



# Banking Act 2009

## 2009 CHAPTER 1

### PART 1

#### SPECIAL RESOLUTION REGIME

#### [<sup>F1</sup>CHAPTER 3

#### SPECIAL RESOLUTION ACTION]

#### *Incidental functions*

#### **64 Special continuity obligations: property transfers**

- (1) Expressions in this section have the same meaning as in section 63.
- (2) The Bank of England may—
  - (a) cancel a contract or other arrangement between the residual bank and [<sup>F1</sup>a third party] (whether or not rights or obligations under it have been transferred to a transferee);
  - (b) modify the terms of a contract or other arrangement between the residual bank and [<sup>F2</sup>a third party] (whether or not rights or obligations under it have been transferred to a transferee);
  - (c) add or substitute a transferee as a party to a contract or other arrangement between the residual bank and [<sup>F3</sup>a third party];
  - (d) confer and impose rights and obligations on a group company and a transferee, which shall have effect as if created by contract between them;
  - (e) confer and impose rights and obligations on the residual bank and a transferee which shall have effect as if created by contract between them.
- (3) In modifying or setting terms under subsection (2) the Bank of England shall aim, so far as is reasonably practicable, to preserve or include—
  - (a) provision for reasonable consideration, and

*Status: Point in time view as at 01/01/2015.*

*Changes to legislation: Banking Act 2009, Section 64 is up to date with all changes known to be in force on or before 23 June 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)*

- (b) any other provision that would be expected in arrangements concluded between parties dealing at arm's length.
- [<sup>F4</sup>(4) The power under subsection (2) must be exercised by way of provision in a property transfer instrument (or supplemental instrument).
- (5) The power in subsection (2)(d) and (e) may be exercised only—
- (a) in so far as the Bank of England thinks it necessary to do so to ensure the provision of such services and facilities as are required to enable the transferee to operate the transferred business, or part of it, effectively, and
  - (b) with the consent of the Treasury.
- (6) An obligation imposed on the residual bank or a group company under subsection (2) (d) or (e) continues to apply despite the residual bank or group company entering insolvency, and may not be disclaimed by a liquidator under section 178(2) of the Insolvency Act 1986 or Article 152(2) of the Insolvency (Northern Ireland) Order 1989.]
- [<sup>F5</sup>(7) For the purposes of subsection (2), “third party” includes a group company.]

#### Textual Amendments

- F1** Words in s. 64(2)(a) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **72(2)**
- F2** Words in s. 64(2)(b) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **72(2)**
- F3** Words in s. 64(2)(c) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **72(2)**
- F4** S. 64(4)-(6) substituted for s. 64(4) (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **72(3)**
- F5** S. 64(7) inserted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **72(4)**

#### Commencement Information

- I1** S. 64 in force at 21.2.2009 by [S.I. 2009/296](#), art. 3, **Sch. para. 1**

**Status:**

Point in time view as at 01/01/2015.

**Changes to legislation:**

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