



Banking Act 2009

2009 CHAPTER 1

PART 1

SPECIAL RESOLUTION REGIME

[^{F1}CHAPTER 3

SPECIAL RESOLUTION ACTION]

[^{F1}Groups]

[^{F1}[^{F2}81CA] Section 81BA [^{F3}and Section 81BB]: supplemental

- (1) This section applies where the Bank of England has power under section 81BA [^{F4}or section 81BB] 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 [^{F5}section 7]) and any other enactment apply (with any necessary modifications) as if the banking group company were a bank.
- (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

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- (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 ^{F6}[^{F7}... 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” [^{F8}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” [^{F9}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).]]

Textual Amendments

- F1** 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](#)
- F2** 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\(1\)\(b\)](#)
- F3** Words in s. 81CA heading inserted (28.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\), regs. 1\(2\), 19](#)
- F4** Words in s. 81CA(1) inserted (28.12.2020) by [The Bank Recovery and Resolution \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1350\), regs. 1\(2\), 20](#)
- F5** 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\(2\)](#)

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- F6** Words in s. 81CA(5) omitted (31.12.2020) by virtue of [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 33**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** 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)**
- F8** 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)**
- F9** 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)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(8A)(8B) inserted by [2012 c. 21 s. 96\(3\)](#)
- s. 8(2)(d) and word inserted by [2012 c. 21 s. 96\(4\)\(b\)](#)