

# **KREDITTILSYNET**

**Norway**

**Translation updated September 2004**

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*This translation is for information purposes only. Legal authenticity remains with the official Norwegian version as published in Norsk Lovtidend.*

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No. 75 of 6 December 1996 (with amendments as per 1 July 2004)

## **Act on Guarantee Schemes for Banks and Public Administration etc., of Financial Institutions (Guarantee Schemes Act)**

### **Chapter 1 Introductory provisions**

#### **Section 1-1 Extent and scope of the Act**

- (1) This Act concerns guarantee schemes for banks with their head office in Norway and public administration etc., of financial institutions with their head office in Norway.
- (2) The King may decide that credit institutions other than banks with their head office in Norway shall entirely or in part come under this Act and may lay down further rules to this effect.
- (3) The King may decide that chapter 3 and 4 of this Act shall apply correspondingly to pension funds.
- (4) The King may lay down further provisions concerning application of this Act to branches of financial institutions with their head office in another state.

#### **Section 1-2 Exceptions**

- (1) This Act does not apply to:
  - a) Norges Bank,
  - b) banks established by the state for the purpose of extending, or providing a guarantee for, credit etc., for special purposes and which exclusively lend funds granted by the Storting, borrowed from the Treasury, or borrowed by other means approved by the King.

#### **Section 1-3 Definitions**

- (1) The following are regarded as financial institutions under this Act:
  - a) banks,
  - b) finance companies and mortgage companies,
  - c) insurance companies,
  - d) the parent company in a financial group or in part of such.
- (2) An undertaking whose activities consist in receiving deposits or other repayable funds from the general public and in making loans for own account is regarded as a credit institution.
- (3) A general agency, an office headed by the undertaking's own staff, and any other place of

business where an independent person is authorised to act on behalf of the undertaking on a permanent basis, are regarded as branches.

(4) The supervisory board of a savings bank is also regarded as the general meeting.

## **Chapter 2 The Banks' Guarantee Fund**

### **Section 2-1 Members**

(1) Savings banks and commercial banks with their head office in Norway shall be members of the Banks' Guarantee Fund. The King may decide that credit institutions other than banks shall be members of the Banks' Guarantee Fund, cf. section 1-1 second paragraph.

### **Section 2-2 Branches**

(1) Credit institutions with their head office in another EEA state which receive deposits from the general public through a branch in Norway are entitled to join the deposit-guarantee scheme mentioned in section 2-10 provided the deposit-guarantee scheme in the branch's home country cannot be considered to give the branch's depositors protection equal to that provided under this Act. The King may lay down further conditions for such membership.

(2) The King may decide that a branch of a credit institution with its head office in a non-EEA state shall be a member of the deposit-guarantee scheme mentioned in section 2-10.

(3) The King may lay down further rules on branches' membership of the Guarantee Fund, including rules authorising the Fund to investigate branches' accounts and audit practice and appraise their conduct of business.

### **Section 2-3 Duty of disclosure to customers**

(1) Banks or other credit institutions that receive deposits in Norway shall inform their customers in writing of the deposit-guarantee scheme to which they belong and of the cover offered by the scheme. The information shall be given in Norwegian in a readily comprehensible manner. The information may be given by electronic means if the customer so wishes.

### **Section 2-4 Purpose, articles of association etc.**

(1) The Guarantee Fund shall through the deposit-guarantee scheme mentioned in section 2-10 provide cover for deposits made with its members. The Fund may also grant support pursuant to section 2-12 to members mentioned in section 2-1.

(2) The Fund is a legal entity in its own right. No member has a proprietary right to any part of the Fund. Winding-up or composition proceedings may not be initiated against the Fund.

(3) The Fund's highest authority is the general meeting, cf. section 2-14. The Fund is headed by a board of directors, cf. 2-15. The Fund shall have articles of association approved by the King.

(4) The Fund may investigate member banks' accounts and audit practice and appraise their conduct of business. In that connection the Fund may require a member bank to present any documents etc., and information deemed necessary by the Fund.

(5) The King may lay down further rules concerning the Fund and its activities.

### **Section 2-5 Deposits**

- (1) In this chapter "deposit" means any credit balance on a named account in a credit institution, and any debt evidenced by a certificate of deposit issued to a named person, except deposits from other financial institutions.
- (2) "Guaranteed deposit" means aggregate deposits of up to NOK 2 million from a depositor in a member institution.
- (3) The King may lay down further rules on what shall be regarded as a deposit in a branch.

### **Section 2-6 Size of the Guarantee Fund**

- (1) The Guarantee Fund's aggregate capital base shall at all times at least equal the sum of 1.5 per cent of aggregate guaranteed deposits with the members plus 0.5 per cent of the sum of the measurement bases for the capital adequacy requirements for those institutions which are members pursuant to section 2-1.

### **Section 2-7 Members' fees**

- (1) The members shall each year pay a fee to the Guarantee Fund unless the Fund's own capital according to the last annual accounts exceeds the minimum requirement under section 2-6.
- (2) A member's annual fee shall be fixed at the sum of 0.1 per cent of total guaranteed deposits plus 0.05 per cent of the measurement base for the capital adequacy requirement, nonetheless such that
  - a) for a member with tier 1 capital adequacy below 8 per cent, the amount of the fee shall be raised by a percentage addition of 4 times the number of percentage points by which the tier 1 capital adequacy falls short of 8 per cent,
  - b) for a member with a tier 1 capital adequacy of more than 8 per cent, the amount of the fee shall be lowered by a percentage deduction of 4 times the number of percentage points by which the tier 1 capital adequacy exceeds 8 per cent, but the deduction may in no case exceed 35 per cent.
- (3) For branches as mentioned in section 2-2 first and second paragraph a fee shall each year be paid to the Fund corresponding to 0.1 per cent of total deposits in the branch. A pro rata deduction shall be made in respect of that part of the guarantee amount under section 2-10 second paragraph for which cover is deemed to be provided under the deposit-guarantee scheme in the branch's home state. The provisions of the second paragraph *litra a* and *b* otherwise apply correspondingly.
- (4) The King may lay down further rules on the calculation of members' fees pursuant to this section and may give his approval for the fee to be set lower than mentioned in the second and third paragraph. If the total amount of fees from the members in any particular year comes to less than one tenth of the Fund's minimum own capital pursuant to section 2-6, the King may decide that the annual fee shall be calculated on the basis of higher rates than those set out in the preceding paragraph.

### **Section 2-8 Members' guarantee**

- (1) If the Fund's own capital is lower than the minimum required under section 2-6, the

shortfall shall be covered by guarantee from the members. The amount guaranteed by each member shall be calculated in the same way as the fee payable under section 2-7.

(2) The Funds' board of directors undertake distribution of the guarantee amounts and stipulate how the guarantee liabilities shall be secured. The distribution of the guarantee amounts shall be recalculated if the board so decides, and when the King so requires.

(3) Calls for payments pursuant to guarantee liabilities in a single year may not exceed one tenth of the minimum capital pursuant to section 2-6.

### **Section 2-9 Changes in membership**

(1) A new member shall pay a fee for its first year of operation as from the date of joining. Payment shall be remitted together with the fee for the next operating year, and may not exceed the fee for that year. If the fee is not payable because the Fund has reached the minimum level of own capital pursuant to section 2-6, a new member shall nonetheless pay a fee corresponding to one year's fee for its first full year of operation in accordance with section 2-7.

(2) Where a member has carried on business prior to joining, the King may fix a special entry fee over and above the fee payable under subsection (1). The fee may not exceed the fee amount the member would have paid under section 2-7 subsection (2) if it had been a member in the preceding year. The King may lay down further rules on payment.

(3) The King may by individual decision or in regulations lay down further provisions on the duty to pay a fee in the event of winding-up, merger and material changes in the scope of activities.

### **Section 2-10 Deposit guarantee**

(1) Unless otherwise provided in the rules of this section, the Guarantee Fund is obliged to cover loss incurred by a depositor on deposits with a member institution. In this section deposits are also deemed to include credit balances deriving from payment transfer orders or other ordinary banking services, as well as interest not fallen due.

(2) If a depositor's total deposits exceed NOK 2 million, the Fund is not obliged to cover losses on that part of the overall deposits that exceeds this amount. Where the member is authorised to set off deposits against liabilities, an individual depositor's total deposits shall be reduced by liabilities that have fallen due pursuant to other agreements. The King may by regulations decide that the limit on compulsory cover may be set at a level higher than that set out in the first sentence in the case of certain special types of deposit or in the case of deposits from particular depositors.

(3) The Fund is not obliged to cover losses on:

- a) deposits from securities funds and other collective-investment undertakings,
- b) deposits carrying an unusually high rate of interest or other financial advantages, when such advantages have contributed to aggravating the institution's financial situation.

(4) The Fund is not entitled to cover losses on:

- a) deposits from companies in the same group as the member institution,
- b) deposits consisting of the proceeds of a punishable act in respect of which a final judgment has been delivered.

(5) Decisions to cover losses over and above the amount the Guarantee Fund is obliged to pay pursuant to subsections (2) and (3) require support from at least 5 board members.

### **Section 2-11 Settlement**

(1) The Fund shall cover losses on deposits pursuant to section 2-10 as soon as possible and no later than three months after:

- a) Kredittilsynet has concluded that a member in its view neither is nor will be in a position to repay deposits and this is related to the member's financial position. Kredittilsynet shall make a decision in the matter no later than 21 days after Kredittilsynet has learned that the member has not repaid deposits that have fallen due for payment and that this is related to the said member's financial position, or
- b) a decision has been taken to place a member under public administration in accordance with chapter 4 or to institute similar insolvency proceedings.

In special cases the King may extend the deadline by up to three months. The deadline may be extended by a maximum of nine months overall.

(2) In the event of disbursement, the Fund shall ensure that each depositor initially receives coverage of losses on deposits up to an amount in Norwegian kroner corresponding to EUR 20,000. Beyond this, instalments may be set for pro rata interim disbursements until all depositors have been fully reimbursed.

(3) Disbursement from the Fund to depositors in branches as mentioned in section 2-2, subsections (1) and (2), shall take place to the extent that depositors' losses are not covered by the deposit-guarantee scheme in the branch's home state.

(4) Disbursement from the Fund to cover losses on deposits in a member's branch in another EEA state must not exceed the disbursement that would have been made by the most comparable deposit-guarantee scheme in the branch's host state or encompass depositors other than those encompassed by such scheme.

(5) Disputes regarding the Fund's decisions pursuant to the deposit guarantee may be appealed to Kredittilsynet in accordance with Chapter VI of the Public Administration Act. A dispute about whether a claim is covered by the deposit guarantee and about the right to coverage under such guarantee may be tried in a court of law.

### **Section 2-12 Support measures**

(1) In order to ensure that a member of the Fund as mentioned in section 2-1 can fulfil its obligations or continue its activities, or in the event have its activities transferred to another institution, the Fund may grant support by:

- a) providing a guarantee or other support to protect deposits or cover losses that are not covered pursuant to section 2-10,
- b) providing liquidity support, loans or guarantees for loans or fulfilment of other commitments,
- c) supplying own capital or providing an own-capital guarantee to enable the activities to continue or be wound up,
- d) covering losses incurred by creditors or certain groups of creditors as a result of a liquidity deficit or capital inadequacy,
- e) other measures in accordance with the articles of association.

(2) The board decides pursuant to further provisions in the articles of association whether and

to what extent a member shall be given support as mentioned in subsection (1). Conditions may be attached to the support. Kredittilsynet may during the support period make decisions and set guidelines as mentioned in section 3-2.

(3) The board may not make a decision pursuant to subsection (2) unless the Fund's remaining capital subsequent to the support measure together with future receipts of annual fees and guarantee capital plus other supply of capital are assumed to be sufficient to cover the Fund's obligations under the deposit-guarantee scheme. Decisions regarding support require endorsement by at least five board members and the justification shall be made clear in the minutes of the board of the Fund.

(4) Support pursuant to this section may instead be given to the parent company of a financial group. The parent company shall in such case give the support directly to the member.

(5) A member bank in receipt of support or guarantee from the Fund shall implement the decisions and conditions that the board of the Fund lays down to provide protection against loss. The bank shall make regular reports to the board of the Fund regarding the member's position and activities in accordance with further provisions of the board of the Fund. The board is also entitled at any time to obtain information about the bank's circumstances.

(6) Except when authorised by the King, the Fund may not furnish a guarantee or assume other obligations in connection with a deposit guarantee or support measure pursuant to this section which in aggregate amount to more than twice the Fund's minimum capital pursuant to section 2-6.

### **Section 2-13 Recourse**

(1) Where the Fund has covered a loss under the guarantee mentioned in section 2-10, the Fund is subrogated to the rights of the depositor to the extent of the amount disbursed. The same applies in regard to losses for which the depositor receives coverage pursuant to section 2-12.

### **Section 2-14 General meeting**

(1) At the general meeting each member of the Fund has one representative and one vote, unless the King determines otherwise.

(2) The general meeting adopts articles of association for the Fund, appoints members and alternates to the board and establishes instructions for the board.

(3) The annual report and accounts shall be dealt with by the general meeting.

### **Section 2-15 Board of directors**

(1) The Fund shall have a board of seven members. Five members with personal alternates are elected by the general meeting. In board composition, emphasis shall be given to ensuring a balanced representation from banks of differing size and character. Norges Bank and Kredittilsynet each appoint one member with an alternate.

(2) The elected members and alternates are appointed for two years. The board appoints the chairman and deputy chairman for one year at a time.

(3) For a board decision to be valid at least four members must vote in favour of the proposal, unless otherwise provided by section 2-10 fifth paragraph and section 2-12 third paragraph.

(4) Minutes shall be kept of board meetings. Kredittilsynet may demand presentation of the minutes of the Funds' board meetings.

## **Chapter 3 Payment and capital adequacy difficulties**

### **Section 3-1 Notice of payment difficulties etc.**

(1) The board of directors and the person directly in charge of a financial institution are each obliged to notify Kredittilsynet if there is reason to fear that:

- a) the institution may be unable to meet its commitments as they fall due,
- b) the institution may be unable to meet the minimum requirements as to own funds or other capital adequacy and prudential requirements set out in laws or regulations,
- c) circumstances have arisen that may entail serious loss of confidence or losses that will substantially weaken or threaten the institution's financial position.

(2) If the institution's auditor learns of circumstances as mentioned in subsection (1), he shall notify Kredittilsynet accordingly as mentioned in subsection (1), unless he has received confirmation from Kredittilsynet that notification has already been given in accordance with subsection (1).

(3) Notification pursuant to subsection (1) shall contain information on the institution's liquidity and capital situation, and explain the reason for the difficulties.

### **Section 3-2 Kredittilsynet's authority**

(1) When Kredittilsynet has received notification pursuant to section 3-1, or has reason to believe that the conditions of section 3-1 first paragraph are present, Kredittilsynet shall in consultation with the institution clarify what measures are necessary. Norges Bank shall be informed.

(2) If such measures are not taken by the institution itself, Kredittilsynet may:

- a) convene the general meeting at shorter notice than that stated in the institution's articles of association,
- b) order the composition of the governing bodies to be altered,
- c) set such conditions or guidelines as are considered necessary to ensure that further activities will be carried on in a satisfactory manner financially and in other respects,
- d) require preparation of an audited statement of financial position.

(3) This section entails no curtailment of Kredittilsynet's authority under the Financial Supervision Act.

### **Section 3-3 Audited statement of financial position**

(1) If Kredittilsynet requires preparation of an audited statement of financial position, the board shall see that this is done immediately. The rules on annual reports and accounts apply correspondingly to the preparation of such a statement.

(2) Kredittilsynet may appoint one or more auditors to examine the institution's financial position. Kredittilsynet determines their remuneration and may lay down further provisions on the auditor's work. The remuneration is payable by the institution.

### **Section 3-4 Notice of general meeting**

(1) If the audited statement of financial position shows that a substantial portion of equity has been lost since the last annual accounts, the board shall immediately convene a general meeting. The same applies if the audited statement of financial position shows that more than 25 per cent of the share capital, or 25 per cent of the sum of the primary capital fund and the paid-up primary capital of a financial institution organised in a manner other than a private limited company or public limited company, has been lost.

(2) The general meeting shall decide whether the institution has sufficient capital for continued satisfactory operation and whether operation in that case should continue. A decision to continue operations shall be reached by majority vote as in the case of changes to the articles of association.

(3) A resolution pursuant to the second paragraph is subject to Kredittilsynet's approval. Section 3-2 applies correspondingly.

(4) If no resolution is passed for the institution to continue its activities, the general meeting may vote by simple majority to transfer the institution's business in its entirety to other financial institutions.

(5) If no resolution is passed regarding transfer of the activities in their entirety, the institution shall be wound up. If a resolution to this effect is not passed at the general meeting, Kredittilsynet shall appoint an administration board to undertake winding up at the institution's expense. The same applies if a resolution to continue activities is not approved by Kredittilsynet, or conditions for approval are not satisfied in due time, or an adopted transfer is not implemented within a period stipulated by Kredittilsynet.

### **Section 3-5 Reduction of share capital and primary capital**

(1) If the audited statement of financial position shows that only 25 per cent or less of the share capital is intact, the board shall present to the general meeting a description of the institution's financial position accompanied by a proposal to write down the share capital against losses shown in the audited statement of financial position.

(2) If the general meeting does not pass a resolution pursuant to the preceding paragraph within the period stipulated by Kredittilsynet, the King may decide that the share capital shall be written down by the amount of capital shown to have been lost by the audited statement of financial position. If it is necessary in order to secure continued satisfactory operation of the institution, the King may also stipulate that the share capital shall be increased by new subscription for shares. The King stipulates further conditions for subscription. The shareholders' preferential rights may be departed from in such further conditions. In such case the parties eligible to subscribe for the shares shall be specified.

(3) The provisions of this section apply correspondingly to the sum of the primary capital fund and the paid-up primary capital of a financial institution organised in a manner other than a limited company.

### **Section 3-6 Reduction of subordinated debt**

(1) If the audited statement of financial position shows that a substantial portion of the subordinated debt has been lost, the provisions of section 3-5, subsection (1), and subsection (2), first sentence, apply correspondingly unless the loan agreement bars the institution from undertaking such a reduction.

(2) In the case of subordinated loans raised after the Act's commencement and having a term of more than five years, the subordinated debt may be written down according to the rules of subsection (1) even if the loan agreement does not contain rules to that effect, unless otherwise expressly provided in the authorisation for the new loans raised.

## **Chapter 4 Public administration**

### **I General rules**

#### **Section 4-1 Scope**

- (1) The provisions of this chapter apply to banks and insurance companies.
- (2) The provisions apply correspondingly to parent companies in financial groups and to credit institutions other than banks that are members of the Banks' Guarantee Fund.
- (3) The King may lay down further supplementary rules and rules to implement public administration in accordance with this chapter.

#### **Section 4-2 Debt negotiation or winding-up**

(1) Debt negotiation or winding-up proceedings pursuant to the Debt Settlement Proceedings and Bankruptcy Act may not be initiated against institutions coming under section 4-1. The same applies to companies that are placed under public administration pursuant to section 4-5, subsection (2).

#### **Section 4-3 Capital inadequacy**

- (1) If Kredittilsynet has reason to believe:
  - a) that an institution is unable to meet its liabilities as they fall due,
  - b) that an institution is unable to meet the existing capital adequacy requirements in accordance with an order from Kredittilsynet, or
  - c) that an institution's assets and incomes combined are not sufficient to meet its liabilities in full,

notification shall be given immediately as stated in subsection (2).

(2) In the case of a bank or other credit institution, Kredittilsynet shall notify Norges Bank and the Guarantee Fund. In the case of an insurance company, Kredittilsynet shall notify Norges Bank and the guarantee scheme to which the company belongs.

(3) Bodies in receipt of notification pursuant to subsection (2) shall give Kredittilsynet their assessment of whether the institution can be secured a sufficient financial basis for continued satisfactory operation. If support is offered, the type and scope of such support shall be described.

#### **Section 4-4 Notification to the ministry**

(1) If Kredittilsynet considers that the institution cannot be secured a financial basis for continued satisfactory operation, the ministry shall be informed thereof immediately. Notification shall contain an assessment of whether the institution should be placed under public administration.



#### **Section 4-5 Public administration order**

(1) If it has to be assumed that the institution cannot meet its liabilities as they fall due and that it cannot be secured a sufficient financial basis for continued satisfactory operation, the King may order the institution to be placed under public administration. The same applies if the institution is unable to meet the capital adequacy requirements, unless consent is given for the institution temporarily to have lower capital adequacy than stipulated. Before an order is made, the board of the institution shall if possible be invited to make a statement. The provisions of section 3-2 apply correspondingly if the institution is not placed under public administration.

(2) If the King makes an order to the effect that the parent company of a financial group shall be placed under public administration, other companies in the financial group may also be placed under public administration.

(3) A public administration order shall be announced at the earliest possible opportunity. The order shall be notified to the Register of Companies, registered with a securities register and registered judicially in the districts where the institution has real property. The order shall also be announced in the Norwegian Gazette requesting creditors to file their claims to the administration board by a specified date.

(4) After the public administration order has been made, the institution shall add "under public administration" to its name.

#### **Section 4-6 Effects of a public administration order**

- (1) Once a public administration order has been made, the following effects come into play:
- a) The institution's former governing bodies become inoperative. The administration board assumes the authority vested in these bodies. The last serving board of directors shall nonetheless decide matters which cannot be deferred until the administration board has taken up its duties.
  - b) The members of the board and the control committee and the auditor shall furnish the administration board with full information on the institution's position and activities.
  - c) A bank may not receive deposits, assume new financial obligations or expand previous financial obligations without Kredittilsynet's approval.
  - d) Payments to depositors and other creditors may not take place without Kredittilsynet's approval.
  - e) The Creditors Security Act and the Provision of Financial Security Act apply correspondingly. The closing date is the date of the resolution to place the institution under administration.
  - f) Creditors with claims established prior to the public administration order may not distrain upon, or by other means secure payment by recourse to, assets belonging to the institution.

(2) Deposits and other liabilities that are established during the period of administration shall be regarded as preferential debt. The same applies to remuneration to the auditor for assignments performed pursuant to section 3-3, subsection (2).

(3) The ministry may authorise the administration board to summon the institution's creditors by notice giving a closing date for claims. Such notice may not encompass bank deposits or tax claims. The closing date and manner of announcement shall be stipulated in the authorisation.

#### **Section 4-7 Administration board and auditor**

- (1) The administration board shall comprise at least three members with personal alternates appointed by Kredittilsynet. The chairman shall as a rule be a lawyer.
- (2) Kredittilsynet appoints one or more auditors, cf. section 3-3.
- (3) Kredittilsynet lays down rules for the work of the administration board and the auditor(s), and stipulates their remuneration. Kredittilsynet may withdraw appointments of board members and auditors.

#### **Section 4-8 Administration board and auditors' tasks and competence**

- (1) The administration board shall endeavour as rapidly as possible to draw up arrangements enabling the continued operation of the institution's activities on a sufficient financial basis, or seek to bring about a merger with, or have its activities transferred to, other institutions, or wind up the institution.
- (2) The administration board shall as soon as possible prepare internal guidelines for the institution's operations. The board shall ensure that a liquidation committee is established which the board can consult, and the board may engage experts to assist in liquidation.
- (3) Decisions of material significance to the institution require Kredittilsynet's approval before they are implemented.
- (4) The administration board shall within three months of its appointment provide Kredittilsynet with an assessment of the institution's position and present a plan for the further work of the board. Kredittilsynet may extend this period.
- (5) The auditor shall examine the financial institution's conduct of its business and prepare an audit report.

#### **Section 4-9 Resumption of ordinary operations**

- (1) If the administration board finds that a sufficient financial basis exists for continued satisfactory operation, the board shall recommend that the King make an order for ordinary operations to be resumed.
- (2) The recommendation may call for claims to be reduced to the extent that there is not assumed to be cover for them, and for instalments to be fixed for payments to creditors. A recommendation for reduction of claims, including claims in regard to subordinated debt, shall be drawn up in conformity with the Creditors Security Act and other applicable rules. The proposal shall contain provisions as to payment of interest on claims that are covered.
- (3) The King may make an order for ordinary operations to be resumed. The order may provide that claims, including interest claims, shall be reduced to the extent that there is not assumed to be cover for them, and fix instalments for payments to creditors. The King may decide that funds shall be set aside to secure corresponding cover of disputed claims. Disputed claims are tried by the liquidation court.
- (4) The administration board shall arrange for election of new officers before operations are resumed. The administration board functions until a new election has taken place. Kredittilsynet lays down necessary transitional rules.
- (5) An order for resumption of ordinary operations by an institution and the conditions attached thereto shall be notified and announced as provided in section 4-5, subsection (3).

## **Section 4-10 Liquidation**

(1) If within a year of an institution being placed under administration it is not probable that it can in the near future resume operations, be merged with one or more other institutions or have its activities taken over by one or more other institutions, the administration board shall wind up the institution's activities and undertake settlement with the creditors. The ministry may stipulate a different period.

(2) In the case of winding up and settlement of estate the rules of chapter VIII et seq., of the Debt Settlement Proceedings and Bankruptcy Act apply correspondingly insofar as appropriate. Kredittilsynet makes such decisions as are required pursuant to the above Act with the exception of trying claims which is done by the liquidation court.

(3) Once liquidation has been carried out the board submits final accounts, including a proposal for distribution, to Kredittilsynet for approval. Kredittilsynet orders their publication and notifies the Register of Companies of the close-down of the institution.

## **II. Special rules for insurance companies**

### **Section 4-11 Insurance liabilities**

(1) After a public administration order has been made, the company may not write or renew insurances. However, Kredittilsynet may authorise such company to do so when special reasons so indicate.

(2) Where an insurance company is under public administration, claims resulting from an insurance contract linked to direct insurance, including interest, shall be paid before other claims, except preferential claims.

(3) The preferential right for life insurance claims applies to an overall amount which is at least equivalent to the institution's insurance fund.

### **Section 4-12 Non-life insurance portfolio**

(1) Three months after a public administration order is made, all non-life insurances become void. The administration board shall as soon as possible and to the extent possible notify in writing policyholders, the insured and others with financial interests connected with the insurance cover, of the date on which their insurances terminate. Notification may be by electronic means provided the person concerned has given his/her express consent.

(2) Claims resulting from a contract for direct insurance, and which arise in the period between the date of a public administration order and the date of termination of the insurance contract, qualify for payment under the rules of section 4-11, subsection (2).

(3) Claims for refund of prepaid premiums (ristorno) for the period after termination of the insurances may not be made for amounts below a limit set by the King.

### **Section 4-13 Disposal of life insurance portfolio**

(1) Upon liquidation of a life insurance company the administration board shall endeavour to have the entire insurance portfolio taken over by one or more life insurance companies. The administration board shall prepare a description of the offers that have been reviewed by the

administration board. If the transfer contract will entail reduction of the insurance amounts, this shall be stated.

(2) The descriptions and the draft transfer agreement shall be announced in the Norwegian Gazette, in the newspaper(s) where the public administration order was announced, and in such other newspapers as Kredittilsynet may decide. The administration board shall also send the announcement to all policyholders and insured persons whose whereabouts are known. The announcement may be sent by electronic means provided the policyholder or the insured person has given his/her express consent. The announcement shall advise all policyholders and insured persons that they must come forward by a certain date if they wish to raise objections against the transfer. If objections to the transfer have not been raised by the said date by at least one-fifth of the policyholders and insured persons to whom the announcement was sent, the administration board shall with Kredittilsynet's approval enter an agreement on transfer. Such transfer entails that the obligations pursuant to the insurance contracts pass to the acquiring company.

(3) If transfer of the insurance portfolio is not achieved, the King shall fix a final reduction of the insurance amounts in accordance with the settlement carried out, and call a general meeting of policyholders to form a mutual company. Two months' notice shall be given of this general meeting. The notice shall be announced and dispatched as stated in subsection 2.

(4) The general meeting adopts articles of association by simple majority, and elects the board and other officers of the company. The board shall send a report to the King with an application for authorisation.

## **Chapter 5 Other provisions**

### **Section 5-1 Penalties**

(1) Anyone who wilfully or through negligence contravenes the provisions of this Act or orders or injunctions issued pursuant thereto is punishable by fines or, in particularly aggravating circumstances, by imprisonment of up to 1 year, provided the offence is not subject to any severer penal provisions.

(2) Complicity is subject to the same penalties.

### **Section 5-2 Amendments to other Acts**

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### **Section 5-3 Commencement and transitional provisions**

(1) This Act comes into force on the date decided by the King. The King may determine that certain provisions of the Act shall come into force at different times. The King may lay down further transitional rules.

(2) Notwithstanding section 2-7 subsection (1), members who have paid fees to the Savings Banks' Guarantee Fund shall be exempt from fee payment for a transitional period of three years as from the calendar year in which the two bank guarantee funds are merged into a single fund. Members who have paid fees both to the Savings Banks' Guarantee Fund and other guarantee schemes shall be accorded exemption from fee payment on a pro rata basis. In cases of doubt the King decides to what extent exemption from fee payment shall be

accorded.

(3) The King may make a decision to the effect that exemption from fee payment in subsection (2) shall be set aside in whole or in part if extraordinary circumstances arise which materially impair the Guarantee Fund's ability to discharge its statutory tasks.

(3) The views of the board of the Guarantee Fund, Norges Bank and Kredittilsynet shall be obtained before decisions as mentioned in subsection (2) and (3) are taken.

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