Draft Order laid before Parliament under section 13(3) of the Banking (Special Provisions) Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

BANKS AND BANKING

The Northern Rock plc Compensation Scheme Order 2008

Made - - - - ***

Coming into force in accordance with article 1(2)

This Order is made in exercise of the powers conferred by sections 5, 9, 12 and 13(2) of the Banking (Special Provisions) Act 2008(**1**).

A draft of this Order has been laid before Parliament in accordance with section 13(3) of that Act and approved by a resolution of each House of Parliament.

Accordingly, the Treasury make the following Order:

1.—(1) This Order may be cited as the Northern Rock plc Compensation Scheme Order 2008.

(2) This Order comes into force on the day after the day on which it is made.

2. The Northern Rock plc Compensation Scheme set out in the Schedule to this Order shall have effect.

Name
Name
Two of the Lords Commissioners of Her
date Majesty's Treasury

(**1**) 2008 c. 2.

SCHEDULE Article 2

The Northern Rock plc Compensation Scheme

PART 1

General provisions

Citation

1. This Scheme may be cited as the Northern Rock plc Compensation Scheme.

Interpretation

2. In this Scheme—

"assessment notice" has the meaning given by paragraph 11;

"Northern Rock" means Northern Rock plc, company registered number 3273685;

"revised assessment notice" has the meaning given by paragraph 12;

"shares in Northern Rock" means the ordinary shares, foundation shares and preference shares issued by Northern Rock;

"the Act" means the Banking (Special Provisions) Act 2008;

"the Transfer Order" means the Northern Rock plc Transfer Order 2008(**2**);

"the transfer time" means the beginning of 22nd February 2008;

"the Tribunal" means the Financial Services and Markets Tribunal;

"valuer" means the independent valuer appointed by the Treasury in accordance with paragraph 7.

PART 2

Determination of amount of compensation

Transfer of Northern Rock shares

3.—(1) The amount of any compensation payable by the Treasury to persons who held shares in Northern Rock immediately before they were transferred by the Transfer Order shall be determined in accordance with this paragraph.

(2) The amount of compensation payable to a person shall be an amount equal to the value immediately before the transfer time of all shares in Northern Rock held immediately before the transfer time by that person.

(3) For the purposes of this Scheme, the holders of shares in Northern Rock, and the class and number of shares held by them, shall be identified by reference to—

(a) the Operator register of members of Northern Rock; and

(b) the issuer register of members of Northern Rock,

following the reconciliation required by article 3(4) of the Transfer Order.

(**2**) SI 2008/432.

(4) In sub-paragraph (3) "issuer register of members" and "Operator register of members" have the meanings given in the Uncertificated Securities Regulations 2001(**3**).

Extinguishment of subscription rights

4.—(1) The amount of any compensation payable by the Treasury to persons whose subscription rights were extinguished by virtue of article 4 of the Transfer Order shall be determined in accordance with this paragraph.

(2) The amount of compensation payable to a person shall be an amount equal to the value immediately before the transfer time of that person's subscription rights.

(3) In this paragraph "subscription rights" means any right or other entitlement granted by—

(a) a relevant undertaking; or

(b) a person not within paragraph (a) by reason of or in connection with—

(i) any individual's office or employment with a relevant undertaking; or

(ii) the services provided by any individual to a relevant undertaking,

to receive shares in Northern Rock (whether by subscription, conversion or otherwise).

(4) In sub-paragraph (3) "relevant undertaking" means Northern Rock or any of its group undertakings.

Modification of rights in relevant instruments

5.—(1) Subject to sub-paragraph (4), the amount of any compensation payable by the Treasury to persons whose rights were extinguished by virtue of the provision made in article 12 of the Transfer Order (referred to in this paragraph as "consequential rights") shall be determined in accordance with this paragraph.

(2) The amount of compensation payable to a person shall be such compensation as may be just in respect of that person's consequential rights.

(3) The determination of any compensation in respect of rights extinguished by virtue of article 12(1) or (2) of the Transfer Order shall take into account—

(a) any diminution in the value of property; or

(b) any increase in the burden of any liability,

which is attributable to the consequences specified in article 12(3) of the Transfer Order not arising.

(4) Compensation is payable in respect of a person's consequential rights only if such compensation is required to be paid to comply with the Convention rights (within the meaning given by section 1 of the Human Rights Act 1998(**4**)).

Valuation assumptions

6. In determining the amount of any compensation payable by the Treasury to any person in accordance with paragraphs 3 to 5, it must be assumed (in addition to the assumptions required to be made by section 5(4) of the Act (compensation etc. for securities transferred etc.)) that Northern Rock —

(a) is unable to continue as a going concern; and

(b) is in administration.

(**3**) S.I. 2001/3755; there are amending instruments but none is relevant.
(**4**) 1998 c. 42.

PART 3

Independent valuer

Appointment of independent valuer

7.—(1) The Treasury shall appoint an independent valuer for the purposes of this Scheme.

(2) The valuer so appointed shall determine the amount of any compensation payable by the Treasury in accordance with Part 2 of this Scheme.

(3) The valuer is to hold and vacate office in accordance with the terms of his appointment.

(4) The Treasury may remove the valuer only on the ground of incapacity or serious misbehaviour.

(5) Before making any appointment under sub-paragraph (1) the Treasury must consult the Institute of Chartered Accountants in England and Wales.

Remuneration

8. The valuer shall be—

(a) paid such remuneration; and

(b) reimbursed such expenses;

as the Treasury may determine.

Appointment of staff

9.—(1) The valuer may appoint such staff as he or she may determine.

(2) The valuer shall determine the remuneration and other conditions of service of the persons appointed under this paragraph.

(3) The valuer may pay such pensions, allowances or gratuities to or in respect of the persons appointed under this paragraph as he or she may determine.

(4) The references in sub-paragraph (3) to pensions, allowances or gratuities to or in respect of the persons appointed under this paragraph include reference to pensions, allowances or gratuities by way of compensation in respect of any of those persons who suffer loss of employment.

(5) Any determination under sub-paragraphs (2) to (4) shall require the approval of the Treasury.

PART 4

Assessment of compensation by valuer

Procedure

10.—(1) The valuer may make such rules as to the procedure in relation to the assessment of any compensation (including the procedure for the reconsideration of any decisions relating to the assessment of compensation) as he or she considers appropriate.

(2) Rules made under sub-paragraph (1) may make different provision for different cases or circumstances.