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. XX

BANKS AND BANKING

The Bradford & Bingley 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 Bradford & Bingley plc Compensation Scheme Order 2008.

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

2. The Bradford & Bingley 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 Bradford & Bingley plc Compensation Scheme

PART 1

General provisions

Citation

1. This Scheme may be cited as the Bradford & Bingley plc Compensation Scheme.

Interpretation

2. In this Scheme—

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

"assessment notice" means a notice issued under paragraph 10;

"Bradford & Bingley" means Bradford & Bingley plc, company registered number 3938288;

"revised assessment notice" means a notice issued under paragraph 11;

"shares in Bradford & Bingley" means the ordinary shares issued by Bradford &Bingley;

"the Transfer Order" means the Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008(**2**);

"the transfer time" means 8.00 a.m. on 29th September 2008;

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

"valuer" means the independent valuer appointed by the Treasury in accordance with paragraph 6.

PART 2

Determination of amount of compensation

Transfer of Bradford & Bingley shares

3.—(1) The amount of any compensation payable by the Treasury to persons who held shares in Bradford & Bingley 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 Bradford & Bingley held immediately before the transfer time by that person.

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

(a) the Operator register of members of Bradford & Bingley; and

(b) the issuer register of members of Bradford & Bingley,

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

(**2**) SI 2008/2546.

(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 5 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 to receive shares in Bradford & Bingley (whether by subscription, conversion or otherwise) granted by—

(a) a relevant undertaking; or

(b) a person not within paragraph (a), where the right or entitlement is enjoyed 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.

(4) In sub-paragraph (3) "relevant undertaking" means Bradford & Bingley or any of its UK subsidiary undertakings that is a body corporate incorporated, or a partnership established, under the law of any part of the United Kingdom.

Modification of interests, rights and liabilities 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 6 or 7 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 consequential rights 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 7(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**)).

PART 3

Independent valuer

Appointment of independent valuer

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

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

(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

7. The valuer shall be—

(a) paid such remuneration; and

(b) reimbursed such expenses;

as the Treasury may determine.

Appointment of staff

8.—(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

9.—(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.

Assessment notice

10.—(1) Where the valuer has assessed the amount of any compensation payable by the Treasury —

(a) to any person; or

(b) in respect of a class or description of shares or rights,

the valuer shall issue an assessment notice.

(2) An assessment notice shall contain the following information—

(a) the date on which the notice is issued;