
STATUTORY INSTRUMENTS

2008 No. 2644

**The Heritable Bank plc Transfer of
Certain Rights and Liabilities Order 2008**

PART 2

THE TRANSFER

Transfer

3.—(1) Subject to paragraph (3), by virtue of this Order the liabilities of Heritable to depositors in respect of the principal of, and accrued interest on, relevant deposit accounts are transferred to Deposits Management (Heritable).

(2) From the effective time, Deposits Management (Heritable) shall have the same rights in relation to depositors in relation to the transferred accounts as it would have if Heritable's relevant terms of business applied.

(3) Paragraph (1) does not apply to any liability in respect of any breach of contract or other duty which arose before the effective time.

(4) In paragraph (1), "relevant deposit accounts" means any of the following accounts operated by Heritable—

- (a) 1 Year Fixed Rate Bond;
- (b) 2 Year Fixed Rate Bond;
- (c) 3 Year Fixed Rate Bond;
- (d) 4 Year Fixed Rate Bond;
- (e) 5 Year Fixed Rate Bond;
- (f) 50 Plus Saver;
- (g) 60 Day Notice;
- (h) 90 Day Notice;
- (i) 120 Day Notice;
- (j) Easy Access;
- (k) Online Saver;
- (l) Direct Saver.

(5) The transfer under paragraph (1) takes place at the time this Order comes into force.

No consent or concurrence required

4. The transfer is effective despite the absence of any required consent or concurrence to, or in connection with, the transfer.

Associated liability and interference

5.—(1) The transfer takes effect as if—

- (a) no associated liability existed in respect of any failure to comply with any requirement in respect of the transfer; and
- (b) there were no associated interference with the transferred rights and liabilities.

(2) In this article “associated liability” and “associated interference” have the meanings given in paragraph 2(2) of Schedule 2 to the Act.

Interests, rights and liabilities of third parties relating to transferred rights and liabilities

6.—(1) No interest or right of any third party relating to any of the transferred rights and liabilities shall arise or become exercisable by virtue of or in connection with this Order.

(2) Save as otherwise provided in this Order, no third party shall incur any liability, or be subject to any obligation, relating to any of the transferred rights and liabilities, by virtue of or in connection with this Order.

(3) Without prejudice to the generality of paragraphs (1) and (2)—

- (a) the consequences specified in paragraph (4) shall not arise in respect of any relevant instrument as a result of the transfer or any other thing done, or matter arising, by virtue of or in connection with article 3 of this Order;
- (b) any circumstances which, but for sub-paragraph (a), would give rise to the consequences specified in paragraph (4) shall not be taken to have arisen for the purposes of any relevant instrument.

(4) The consequences are—

- (a) the termination of a relevant instrument or any rights or obligations under it;
- (b) any right to terminate a relevant instrument or any right or obligation under it becoming exercisable;
- (c) any amount becoming due and payable or capable of being declared due and payable;
- (d) any other change in the amount or timing of any payment falling to be made or due to be received by any person;
- (e) any right to withhold, net or set off any payment becoming exercisable;
- (f) any event of default or breach of any right arising;
- (g) any right not to advance any amount becoming exercisable;
- (h) any obligation to provide or transfer any deposit or collateral;
- (i) any right to give or withhold any consent or approval; or
- (j) any other right or remedy (whether or not similar in kind to those referred to in paragraphs (a) to (i)) arising or becoming exercisable.

(5) Without prejudice to paragraph (4), any provision in a relevant instrument that, as a result of the transfer or any other thing done, or matter arising, by virtue of or in connection with article 3 of this Order, provides for an obligation not to be created, suspends or extinguishes (in whole or in part) such an obligation or renders such an obligation subject to conditions, shall be of no effect.

(6) In this article—

“relevant instrument” has same meaning as in paragraph 4(3) of Schedule 1 to the Act and the specified connection referred to in paragraph 4(3)(c) of that Schedule is between Heritable and those undertakings whose assets and liabilities, profits and losses are consolidated in the consolidated accounts of Heritable;

“third party” shall be construed in accordance with paragraph 2(3) of Schedule 2 to the Act.

Payment of transferred liabilities

7.—(1) Deposits Management (Heritable) may without penalty or other charge pay any transferred liability prior to the due date for payment.

(2) Where Deposits Management (Heritable), in pursuance of paragraph (1), pays a transferred liability prior to the due date for payment, Deposits Management (Heritable) may not rely on any transferred right or any other term of business of Heritable to reduce or modify the transferred liability by reason of the fact that payment is being made prior to the due date for payment.

(3) Deposits Management (Heritable) shall not be obliged to pay any transferred liability sooner than is reasonably practicable.

Construction of documents etc.

8. As from the effective time and save as otherwise provided in this Order—

- (a) agreements made or other things done by or in relation to Heritable shall be treated, so far as may be necessary for the purposes of or in connection with the transfer (but not otherwise) as made or done by or in relation to Deposits Management (Heritable), as the case may be;
- (b) references to Heritable or to any officer or employee of Heritable in instruments or documents relating to the transferred rights and liabilities, shall have effect as if they were references to Deposits Management (Heritable), or to any officer or employee of Deposits Management (Heritable), as the case may be.

Validity of acts done by Deposits Management (Heritable)

9. Anything done by or in relation to Deposits Management (Heritable) after the effective time for the purposes of or in connection with this Order which would have been effective had it been done by or in relation to Heritable prior to the effective time shall be effective.

Exemption of Deposits Management (Heritable) Limited

10. Deposits Management (Heritable) is an exempt person for the purposes of the 2000 Act in respect of any regulated activity of the kind specified by article 5 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(1)(accepting deposits).

Provision of information and assistance

11.—(1) Heritable shall provide Deposits Management (Heritable) with such information and assistance as is reasonably requested by Deposits Management (Heritable)—

- (a) in relation to the transferred rights and liabilities;
- (b) for any purpose relating to this Order; or
- (c) for any purpose relating to any other function of Deposits Management (Heritable) which relate to its functions under this Order.

(2) Heritable shall provide the Treasury with such information and assistance as is requested by the Treasury for any purposes relating to this Order.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
