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STATUTORY INSTRUMENTS

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**2009 No. 310**

**BANKS AND BANKING**

**The Heritable Bank plc Transfer of Certain Rights and Liabilities (Amendment) Order 2009**

<i>Made</i>	- - - -	<i>18th February 2009</i>
<i>Laid before Parliament</i>		<i>19th February 2009</i>
<i>Coming into force</i>	- -	<i>20th February 2009</i>

The Treasury, in exercise of the powers conferred by sections 6, 12, 13(2), and 14(2) and (3) of, and Schedule 2 to, the Banking (Special Provisions) Act 2008<sup>(1)</sup>, make the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Heritable Bank plc Transfer of Certain Rights and Liabilities (Amendment) Order 2009.

(2) This Order comes into force on 20th February 2009.

(3) In this Order—

“the first transfer order” means the Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008<sup>(2)</sup>;

“the second transfer order” means the Transfer of Rights and Liabilities to ING Order 2008<sup>(3)</sup>.

(4) Terms used in this Order which are defined by the first or second transfer order have the meanings given in that order.

**Balancing payments**

2. If the Treasury, the FSCS, Heritable and ING agree that it is not appropriate or reasonable to make (or to continue to make) the revisions specified in article 13(5)(a) and (b) of the first transfer order, no revision (or no further revision) may be made under those provisions.

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(1) 2008 c. 2.

(2) S.I. 2008/2644; amended by SI 2008/2666.

(3) S.I. 2008/2666.

### **Costs and expenses of administrator**

3. In article 23(1) of the first transfer order, the reference to the Treasury shall, from the effective time (within the meaning of the second transfer order), have effect as if it was a reference to ING.

### **Amendments to the first transfer order**

4.—(1) The first transfer order is amended as follows—

- (a) in article 15(1), for “effective date” substitute “effective time”;
- (b) in article 23(1), for “article 20(1)” substitute “article 20”.

(2) The amendment made in paragraph (1)(b) has effect from the time at which the first transfer order came into force.

18th February 2009

*Dave Watts*  
*Steve McCabe*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under the Banking (Special Provisions) Act 2008 (c.2) and makes provision in relation to the Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2644) (“the Transfer Order”).

Article 2 modifies the ability of the Financial Services Compensation Scheme (“FSCS”) and Heritable Bank to revise the estimates of the amounts which are relevant for determining the sum which is to be paid to Deposits Management (Heritable) pursuant to article 13 of the Transfer Order. The effect of article 2 is that no revisions of the estimates (or no further revisions) may be made if the FSCS, Heritable, the Treasury and ING all agree that it is not appropriate or reasonable to make such revisions.

Article 3 provides that the reference to the Treasury in article 23(1) of the Transfer Order (expenses of the administrator incurred in performing obligations under article 20 of the Transfer Order) is to be treated as a reference to ING. This provision has effect from the date on which the accounts transferred to Deposits Management (Heritable) under the Transfer Order were transferred to ING under the Transfer of Rights and Liabilities to ING Order 2008 (SI 2008/2666).

Article 4 amends certain drafting errors and ambiguities in the Transfer Order. The amendment in article 4(1)(b) has effect from the date on which the Transfer Order came into force.