
STATUTORY INSTRUMENTS

2008 No. 2546

The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008

PART 8

SUPPLEMENTARY

Modification to Authority's rule-making power

37.—(1) Subsections (1) and (1A)(1) of section 138 of the 2000 Act (general rule-making power) have effect as if modified by inserting after “protecting the interests of consumers”—

“or for the purposes of, to facilitate or in consequence of, a transfer under section 3 or 8 of the Banking (Special Provisions) Act 2008”.

(2) Section 148(2)(2) of the 2000 Act (modification or waiver of rules) shall also apply in relation to a relevant undertaking—

- (a) in the absence of an application by a person subject to rules made by the Authority; and
- (b) without any requirement for the consent of such a person.

(3) Section 148(4)(3) of the 2000 Act shall not prevent the Authority from modifying or waiving rules in relation to a relevant undertaking under section 148 of that Act provided that the Authority is satisfied that the modification or waiver is necessary for the purposes of, to facilitate or in consequence of the first or second transfer.

Modification to Authority's duty to consult on rule changes

38.—(1) Section 155(7) of the 2000 Act (consultation) has effect as if modified by adding at the end—

“or if it is making rules for the purposes of, or to facilitate or in consequence of, a transfer under section 3 or 8 of the Banking (Special Provisions) Act 2008.”

(2) Section 157 of the 2000 Act (guidance) has effect as if modified by adding after subsection (3)

—
“(3A) Section 155(7) applies to proposed guidance as it applies to proposed rules with the modification made by article 39(1) of the Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008.”.

Modification of provision on liability in relation to operator's functions

39.—(1) Section 291 of the 2000 Act (liability in relation to recognised body's regulatory functions) shall have effect for the purposes of this Order as if the following modifications are made.

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- (1) Subsections (1A) to (1C) were inserted by [S.I. 2006/2975](#).
 - (2) Subsection (2) was substituted by [S.I. 2007/1973](#).
 - (3) Subsection (4)(a) was amended by [S.I. 2007/1973](#).

(2) In subsection (1)—

(a) after “its officers and staff” add “and an operator and its officers and staff”;

(b) after “recognised body’s” add “or the operator’s”.

(3) In subsection (3) at the end add—

“and the functions of the operator so far as relating to, or matters arising out of, the obligations to which the operator is subject under the Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008.

(4) In this section, “operator” has the meaning given in the Uncertificated Securities Regulations 2001.”.

Enterprise Act 2002

40. Part 3 of the Enterprise Act 2002 (mergers)(4) shall not apply to the first or second transfer save insofar as it gives effect to an obligation under Community law.

Freedom of information

41. For the purposes of section 3 of the Freedom of Information Act 2000 (public authorities)(5), while Bradford & Bingley is wholly owned by the Treasury, a relevant undertaking shall be deemed—

(a) not to be a publicly-owned company for the purposes of subsection (1)(b);

(b) not to hold information on behalf of the Treasury for the purposes of subsection (2)(b).

Notification requirement

42.—(1) The Treasury must notify the Authority of the making of this Order.

(2) A notification under paragraph (1)—

(a) may be given by such means as the Treasury consider appropriate;

(b) must be given to the Authority as soon as reasonably practicable after the first transfer time.

(4) 2002 c.40.

(5) 2000 c.36.