

EXPLANATORY MEMORANDUM TO

THE NORTHERN ROCK PLC COMPENSATION SCHEME (AMENDMENT) ORDER 2009 S.I. 2009/791

THE BRAFORD & BINGLEY PLC COMPENSATION SCHEME (AMENDMENT) ORDER 2009 S.I. 2009/790

1. This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2.1 The Northern Rock plc Compensation Scheme (Amendment) Order 2009 ("the Northern Rock Amending Order") amends the Northern Rock plc Compensation Scheme Order 2008 (S.I. 2008/718). The latter Order provided for the appointment of an independent valuer to determine the amount of any compensation payable to former shareholders of Northern Rock plc following it being taken into public ownership. The Northern Rock Amending Order provides that the valuer may seek a court order to require persons to provide information that is reasonably required for the purpose of assessing the amount of any compensation payable by the Treasury.

2.2 The Bradford & Bingley plc Compensation Scheme (Amendment) Order 2009 ("the Bradford & Bingley Amending Order") makes a similar amendment to the Bradford & Bingley plc Compensation Scheme Order 2008 (S.I. 2008/3249) in respect of the determination by the valuer of any compensation following the taking into public ownership of Bradford & Bingley plc.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 In its Twelfth Report of the 2007-08 Session the Joint Committee reported paragraph 27 of the Schedule to the Northern Rock plc Compensation Scheme Order 2008 for defective drafting. Article 4 of the Northern Rock Amending Order makes an appropriate amendment to that paragraph.

4. Legislative Context

4.1 The Northern Rock plc Compensation Scheme Order 2008 provides a scheme for determining the amount of compensation, if any, payable by the Treasury to those whose securities were transferred, or whose rights were extinguished, by the Northern Rock plc Transfer Order 2008 (S.I. 2008/432). The Bradford & Bingley plc Compensation Scheme Order 2008 makes similar provision in respect of the transfer into public ownership of Bradford & Bingley plc under Part 2 of the Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I.2008/2546)

- 4.2 In each case, the scheme includes the appointment of an independent valuer to determine the amount of any compensation payable under the scheme.
- 4.3 The Northern Rock Amending Order and the Bradford & Bingley Amending Order each provide that the valuer may apply to the court for an order to require any person to provide information that is reasonably required for the purpose of assessing the amount of any compensation payable by the Treasury, subject to certain exceptions. Each Order provides for the disclosure of such information by the valuer in limited circumstances.

5. Territorial Extent and Application

- 5.1 These instruments apply to all of the United Kingdom.

6. European Convention on Human Rights

- 6.1 The Financial Services Secretary to the Treasury, Lord Myners, has made the following statement regarding Human Rights.

In my view the provisions of the Northern Rock plc Compensation Scheme (Amendment) Order 2009 and the Bradford & Bingley plc Compensation Scheme (Amendment) Order 2009 are compatible with the Convention rights.

7. Policy background

- *what is being done and why*

- 7.1 The Northern Rock plc Compensation Scheme Order 2008 provided a power for the Treasury, as part of a scheme, to appoint an independent valuer to assess any compensation due to shareholders and others whose rights may have been interfered with by the Northern Rock plc Transfer Order 2008. Shareholders have the right to appeal to the Financial Services and Markets Tribunal against the valuer's assessment. Similar provision for such a scheme was made by the Bradford & Bingley plc Compensation Scheme Order 2008.

- 7.2 The purpose of the Northern Rock Amending Order and the Bradford & Bingley Amending Order is to enable the independent valuers appointed under the two schemes to apply to the court to obtain information reasonably required for the purposes of assessing the amount of any compensation payable by the Treasury. The provisions are designed to ensure that the valuers have such powers as are necessary to conduct the valuations.

- *consolidation*

- 7.3 There is no consolidation planned at present.

8. Consultation outcome

- 8.1 There has been no public consultation prior to the laying of these instruments.

9. Guidance

9.1 It is not intended to issue any guidance.

10. Impact

10.1 The impact on business, charities or voluntary bodies is estimated as minimal.

10.2 The impact on the public sector is estimated as minimal.

10.3 An Impact Assessment has not been prepared for these instruments.

11. Regulating small business

11.1 The legislation applies to small business, but it is considered that any impact will be minimal.

12. Monitoring and review

12.1 The Treasury will keep the operation of the legislation under regular review.

13. Contact

13 Eamonn White at HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. Tel: 0207 270 5274 or e-mail: eamonn.white@hm-treasury.x.gsi.gov.uk can answer any queries regarding the instrument.