STATUTORY INSTRUMENTS

# 2009 No. 791

# BANKS AND BANKING

## The Northern Rock plc Compensation Scheme (Amendment) Order 2009

*Made - - - - 25th March 2009*

*Coming into force in accordance with article 1(2)*

This Order is made in exercise of the powers conferred by sections 5, 9 and 12 of the Banking (Special Provisions) Act 2008(**a**) and section 237 of the Banking Act 2009(**b**).

A draft of this Order has been laid before Parliament in accordance with section 13(3) of the Banking (Special Provisions) Act 2008 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 Northern Rock plc Compensation Scheme (Amendment) Order 2009.

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

**2.** The Schedule to the Northern Rock plc Compensation Scheme Order 2008(**c**) is amended as follows.

**3.** After paragraph 9 insert—

"PART 3A

Information

**9A.**—(1) The court may, on an application by the valuer, make an order requiring the provision of information that is reasonably required for the purpose of assessing the amount of any compensation payable by the Treasury.

(2) A person required to provide information pursuant to an order under sub-paragraph (1) shall not be required to provide information—

(a) in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings;

(b) if such provision by the person holding it would be prohibited by or under any enactment;

(**a**) 2008 c.2.
(**b**) 2009 c.1. Section 237 provides that the power under section 9 of the Banking (Special Provisions) Act 2008 includes power to replicate or to make provision of a kind that may be made under section 55(1) to (3) of the Banking Act 2009.
(**c**) S.I. 2008/718.

(c) if it is held by a government department and such provision would be contrary to the public interest.

(3) In relation to information recorded otherwise than in legible form, the power to require it to be provided includes power to require it to be provided in a form from which it can readily be produced in visible and legible form.

**9B.** A person who provides information to the valuer for the purpose of the assessment by the valuer of the amount of any compensation payable by the Treasury is not, by reason only of the provision of such information, liable in any proceedings relating to a breach of an obligation of confidence.

**9C.** Specified information shall not be disclosed by the valuer (or any person to whom the valuer has disclosed such information in accordance with paragraph 9D(2)) without the consent of the person from whom the valuer obtained the specified information and, if different, the person to whom it relates.

**9D.**—(1) The prohibition in paragraph 9C of the disclosure of specified information is subject to the following exceptions.

(2) The valuer may, for the purpose of assessing the amount of any compensation payable, disclose specified information to any staff appointed under paragraph 9 or to any person providing advice or assistance to the valuer.

(3) The valuer may disclose specified information if and to the extent that the valuer considers it necessary to do so for the purpose of exercising the functions of the office.

(4) The valuer must, before disclosing any specified information in accordance with sub-paragraph (3), have regard to the need to exclude from disclosure (so far as practicable) —

(a) commercial information, the disclosure of which might significantly harm the legitimate business interests of the person to whom it relates,

(b) information relating to the private affairs of an individual, the disclosure of which might significantly harm the individual's interests, or

(c) any information the disclosure of which would be contrary to the public interest.

(5) The valuer may disclose specified information in accordance with this paragraph subject to such conditions as the valuer thinks appropriate.

**9E.** In this Part —

"court" means the High Court or the Court of Session;

"specified information" means any information obtained by the valuer for the purpose of assessing the amount of any compensation payable by the Treasury. ".

**4.** In paragraph 27, in the new rule 10A(1)(a) inserted by that paragraph, for "one or more" substitute "two or more".

*Tony Cunningham*
*Steve McCabe*

25th March 2009 — Two of the Lords Commissioners of Her Majesty's Treasury

## EXPLANATORY NOTE

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

This Order is made under the Banking (Special Provisions) Act 2008 (c.2). It amends the Schedule to the Northern Rock plc Compensation Scheme Order 2008 (S.I. 2008/718)("the Compensation Scheme Order").

The Compensation Scheme Order 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 Compensation Scheme Order provides for the appointment of an independent valuer to determine the amount of compensation, if any, payable by the Treasury.

New paragraph 9A of the Schedule provides that the court may, on an application by the valuer, make an order requiring a person to provide any information that is reasonably required for the purpose of assessing the amount of any compensation payable by the Treasury, subject to certain specified exceptions.

New paragraph 9B provides that a person is not to be liable for breach of confidence where information is given to the valuer for the purposes of the assessment of compensation.

New paragraphs 9C and 9D provide that information which has been obtained by the valuer for the purpose of assessing the amount of any compensation payable by the Treasury may only be disclosed by the valuer in specified circumstances.

Article 4 corrects a minor drafting error in the Compensation Scheme Order.

An Impact Assessment has not been prepared for this instrument as no significant impact on business, charities or voluntary bodies is foreseen.

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