

EXPLANATORY MEMORANDUM TO
THE NORTHERN ROCK plc TRANSFER ORDER 2008

2008 No. 432

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 The Northern Rock plc Transfer Order 2008 ("the Order") transfers shares in Northern Rock plc ("Northern Rock") to the Treasury Solicitor as nominee for Her Majesty's Treasury and makes various connected provisions.

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

- 3.1 It was not possible in the case of this Order to comply with the 21-day rule according to which relevant instruments are laid before Parliament for at least 21 days prior to coming into force. The Order was made on 21st February 2008, after the granting of Royal Assent to the Banking (Special Provisions) Act 2008 ("the Act"), and then laid before Parliament on that day, coming into force on 22nd February 2008.

- 3.2 It is important that the transfer of securities in Northern Rock, and other related matters, has effect as soon as possible following the making of the Order. Shares in Northern Rock plc have been suspended since 18th February, and it is in everyone's interest for the transfer of shares to be effected as swiftly as possible to avoid any further uncertainty and so as to enable Northern Rock to have clarity about its position.

4. **Legislative Background**

- 4.1 The Order is the first order made under the Banking (Special Provisions) Act 2008 and, in particular, in exercise of the power under section 3 to transfer securities. By virtue of section 2(8), the power is only exercisable for a period of one year from the passing of the Act.

- 4.2 Section 2 of the Act requires that, before making an order under section 3, the Treasury must consider that it is desirable to make the order for either or both of the purposes set out in section 2(2). The Treasury considers it desirable to make the Order for the purpose set out in section 2(2)(b), that is, to protect the public interest in circumstances where the Treasury have provided financial assistance to the Northern Rock and for the purpose of maintaining the stability of the UK financial system.

- 4.3 In addition to providing for the transfer of Northern Rock shares, the Order also, among other things, extinguishes the existing share options; converts Northern Rock Foundation shares to ordinary shares and terminates the existing Foundation deed; makes limited technical adjustments to the provisions of certain Tier 1 securities; provides for

the rights or obligations of lenders, bondholders, swap counterparties or suppliers which would be triggered by the act of bringing Northern Rock into temporary public ownership not to be so triggered; facilitates Northern Rock board changes; deals with the issue of liability of those directors appointed to or continuing on the board of Northern Rock whilst it is in public ownership; modifies the application of certain provisions of the Financial Services and Markets Act 2000 to the company; and disapplies shadow directorship provisions to specified public sector persons.

4.2 In accordance with the requirement in section 5(1) of the Act, the Treasury intends to make an order under section 5 which provides for the amount of any compensation payable by the Treasury to persons who held shares in Northern Rock immediately before the transfer and for the extinguishment of certain associated rights (the draft Northern Rock plc Compensation Scheme Order 2008).

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is necessary.

7. Policy background

7.1 The purpose of the Act is to enable the Government to act to secure the continued stability of the UK financial system and to protect the public interest where financial assistance has been provided to a UK deposit-taker.

7.2 The purpose of the Order is, as the Chancellor of the Exchequer announced on 17th February, to bring Northern Rock into a temporary period of public ownership.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

9.1 Hugh Burns, at HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. Tel: 020-7270 5095 or e-mail: hugh.burns@hm-treasury.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: HM Treasury	Title: Impact Assessment of the Northern Rock plc transfer Order 2008 and the Northern Rock plc compensation scheme Order 2008	
Stage: Implementation	Version: 1	Date:21 February 2008
Related Publications: The Banking (Special Provisions) Bill 2008, the Chancellor's statement on Northern Rock plc, 18 February 2008, House of Commons Hansard column 21		

Available to view or download at:

<http://www.hm-treasury.gov.uk>

Contact for enquiries:

Telephone:

What is the problem under consideration? Why is government intervention necessary?

Protecting the public interest in circumstances where financial assistance has been provided by the Treasury to a deposit-taker for the purposes of maintaining stability in the UK financial system.

What are the policy objectives and the intended effects?

To promote financial stability; to protect consumers and depositors; and to protect the interests of the taxpayer.

What policy options have been considered? Please justify any preferred option.

The Government has made clear that, in its role as provider of financial support, it has wanted to test all the options and to give the company time to find a solution that was acceptable and that met the three principles above. The Government decided to protect taxpayers' interest after having weighed up the various competing considerations against its stated objectives. It was clear that a temporary period of public ownership of Northern Rock plc was the best option for meeting those objectives, including protecting the interests of the taxpayer.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The Government intends to return the bank to the private sector when market conditions make that possible.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Alistair Darling

21st February 2008

