
STATUTORY INSTRUMENTS

2009 No. 319

The Banking Act 2009 (Third Party Compensation Arrangements for Partial Property Transfers) Regulations 2009

Mandatory provisions – assessment of insolvency treatment

5.—(1) A third party compensation order in relation to a partial property transfer must include the following provisions (subject to any necessary modifications).

(2) The independent valuer must assess the treatment (“the insolvency treatment”) which [^{F1}relevant persons] would have received had the banking institution in relation to which or in connection with which the partial property transfer has been made entered insolvency^{M1} immediately before the relevant time.

(3) The independent valuer must assess the treatment (“the actual treatment”) which [^{F1}relevant persons] have received, are receiving or are likely to receive (as specified in the order) if no (or no further) compensation is paid.

(4) If the independent valuer considers that, in relation to any [^{F2}relevant person], the actual treatment assessed under paragraph (3) is less favourable than the insolvency treatment assessed under paragraph (2), the independent valuer must determine that compensation be paid to that [^{F2}relevant person].

(5) The amount of compensation payable by virtue of paragraph (4) must be determined by the independent valuer by reference to the difference in treatment assessed under paragraph (4) and on the basis of the fair and equitable value of that difference in treatment.

Textual Amendments

F1 Words in reg. 5(2)(3) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **126(5)(a)**

F2 Words in reg. 5(4) substituted (1.1.2015) by [The Bank Recovery and Resolution Order 2014 \(S.I. 2014/3329\)](#), arts. 1(2), **126(5)(b)**

Marginal Citations

M1 See section 60(3)(c) of the Act.

Changes to legislation:

There are currently no known outstanding effects for the The Banking Act 2009 (Third Party Compensation Arrangements for Partial Property Transfers) Regulations 2009, Section 5.