



Dormant Bank and Building Society Accounts Act 2008

2008 CHAPTER 31

PART 1

TRANSFER OF BALANCES IN DORMANT ACCOUNTS

Alternative scheme for smaller institutions

2 Transfer of balances to charities, with proportion to reclaim fund

(1) This section applies where—

- (a) a smaller bank or building society transfers to an authorised reclaim fund an agreed proportion of the balance of a dormant account that a person (“the customer”) holds with it,
- (b) the bank or building society transfers the remainder of that balance to one or more charities,
- (c) the charity, or each of the charities, either—
 - (i) is a charity that the bank or building society considers to have a special connection with it, or
 - (ii) undertakes to apply the money in question for the benefit of members of communities that are local to the branches of the bank or building society,
- (d) the reclaim fund consents to the transfer to it, and
- (e) the charity, or each of the charities, consents to the transfer to it.

(2) After the transfers—

- (a) the customer no longer has any right against the bank or building society to payment of the balance, but
- (b) the customer has against the reclaim fund whatever right to payment of the balance the customer would have against the bank or building society if the transfers had not happened.

Status: Point in time view as at 06/06/2022.

Changes to legislation: There are currently no known outstanding effects for the Dormant Bank and Building Society Accounts Act 2008, Cross Heading: Alternative scheme for smaller institutions. (See end of Document for details)

- (3) The reference in subsection (1) to an account that a person holds is to be read as including an account held by a deceased individual immediately before his or her death.

In such a case, a reference in subsection (2) to the customer is to be read as a reference to the person to whom the right to payment of the balance has passed.

- (4) In subsection (1) “agreed proportion” means a proportion agreed between the bank or building society and the reclaim fund.

In agreeing that proportion, the reclaim fund must take account of the need for the fund to have access at any given time to enough money to enable it to meet whatever repayment claims it is prudent to anticipate.

- (5) For the purposes of this section—

- (a) “repayment claim” means a claim made by virtue of subsection (2)(b);
- (b) a “smaller” bank or building society is one that meets the assets-limit condition (see section 3);
- (c) a charity has a “special connection” with a bank if (and only if) the purpose, or any of the main purposes, of the charity is to benefit members of communities that are local to the branches of the bank;
- (d) a charity has a “special connection” with a building society if (and only if) the purpose, or any of the main purposes, of the charity—
 - (i) is to benefit members of communities that are local to the branches of the building society, or
 - (ii) is especially consonant with any particular purposes that the building society has.

- (6) The reference in subsection (5)(d)(ii) to particular purposes does not include the purpose mentioned in section 5(1)(a) of the Building Societies Act 1986 (c. 53) (making loans that are secured on residential property and substantially funded by members).

- [^{F1}(7) A transfer of an amount to an authorised reclaim fund and to one or more charities as mentioned in subsection (1) does not itself—

- (a) constitute a breach of trust or fiduciary duty affecting the amount owing, or
- (b) give rise to any other liability of any kind (whether against the transferring bank or building society, the reclaim fund, any charity concerned or any other person involved), other than the liability of the reclaim fund arising under subsection (2)(b).]

Textual Amendments

- F1** S. 2(7) inserted (6.6.2022) by [Dormant Assets Act 2022 \(c. 5\)](#), s. 34(3), [Sch. 1 para. 7\(1\)](#) (with [Sch. 1 para. 7\(2\)](#)); [S.I. 2022/582](#), reg. 2

Modifications etc. (not altering text)

- C1** S. 2 applied (6.6.2022) by [1992 c. 12, s. 26A\(2\)\(b\)](#) (as substituted by [Finance Act 2022 \(c. 3\)](#), [Sch. 6 paras. 1, 6](#); [S.I. 2022/569](#), [reg. 2](#))
- C2** S. 2 applied (6.6.2022) by [2008 c. 9, s. 39\(2\)\(b\)](#) (as substituted by [Finance Act 2022 \(c. 3\)](#), [Sch. 6 paras. 2, 6](#); [S.I. 2022/569](#), [reg. 2](#))

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Commencement Information

II S. 2 in force at 12.3.2009 by S.I. 2009/490, art. 2

[^{F2}2A Return of surplus alternative scheme assets

- (1) This section applies where an authorised reclaim fund has determined that a proportion of its alternative scheme assets does not need to be retained for the purposes of achieving any of its objects other than the transfer of money to the body or bodies for the time being specified in section 16(1).
- (2) For the purposes of this section the reclaim fund’s “alternative scheme assets” are the money and other assets which are—
 - (a) held by the reclaim fund, and
 - (b) derived from amounts transferred to it by virtue of section 2 (“section 2 transfers”).
- (3) Where this section applies the reclaim fund must take the following steps.
- (4) Step 1 is to determine the amount corresponding to the proportion of its alternative scheme assets that does not need to be retained.
- (5) Step 2 is to allocate a share of that amount to each bank or building society that has made section 2 transfers.

The allocation is to be made in the way the reclaim fund considers appropriate, having regard to the amounts transferred by each bank or building society.
- (6) Step 3 is to transfer the allocated share to each bank or building society concerned, unless it has—
 - (a) refused consent to the transfer, or
 - (b) notified the reclaim fund that it does not wish to receive payments by virtue of this section (and the notice has not been withdrawn).
- (7) Step 4, in the case of a share not transferred under step 3, is to transfer a corresponding amount to the body or bodies for the time being specified in section 16(1).
- (8) A bank or building society receiving a payment by virtue of this section must transfer the same amount to one or more eligible charities (with the consent of the charity, or each charity, concerned).
- (9) For the purpose of subsection (8) an “eligible charity” is one which—
 - (a) is considered to have a special connection with the bank or building society which originally made the section 2 transfers by reference to which the payment relates, or
 - (b) has undertaken to apply the money in question for the benefit of members of communities that are local to the branches of that bank or building society.
- (10) In subsection (9) “special connection” is to be interpreted in accordance with section 2(5)(c) and (d) and (6).]

Textual Amendments

F2 S. 2A inserted (6.6.2022) by Dormant Assets Act 2022 (c. 5), ss. 20, 34(3); S.I. 2022/582, reg. 2

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3 The assets-limit condition

- (1) A bank or building society meets the assets-limit condition if the aggregate of the amounts shown in its balance sheet as assets on the last day of the latest financial year for which it has prepared accounts is less than £7,000 million.
- (2) In relation to a bank or building society that was a member of a group on the day referred to in subsection (1), that subsection has effect as if the aggregate of the amounts shown in its balance sheet as assets on that day also included the aggregate of the amounts shown in each group member's balance sheet as assets—
 - (a) on that day, or
 - (b) (in the case of a group member whose financial year did not end on that day) on the last day of its latest financial year to end before that day.
- (3) Where a balance sheet for a particular day shows amounts in a currency other than sterling, for the purposes of this section the amounts are to be converted into sterling at the London closing exchange rate for that currency and that day.
- (4) The Treasury may by order amend the figure in subsection (1).
- (5) An order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I2 [S. 3](#) in force at 12.3.2009 by [S.I. 2009/490](#), [art. 2](#)

Status:

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Changes to legislation:

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