



# Dormant Assets Act 2022

## 2022 CHAPTER 5

### PART 2

#### OTHER PROVISIONS

##### *Regulation-making powers*

#### **19 Power to extend the dormant assets scheme to cover new dormant assets**

- (1) The Secretary of State or the Treasury may by regulations make provision for, and in connection with, extending the scope of the dormant assets scheme by—
- (a) inserting an entry to the list in section 1(6) and making provision in Part 1 so as to provide for the operation of the scheme in relation to assets covered by the entry, or
  - (b) amending provisions of the 2008 Act or of Part 1 of this Act which describe the assets covered by an entry in that list (and, if considered appropriate, amending that entry).
- (2) Provision made by virtue of subsection (1)(a), in relation to assets of any description, must include (in addition to the new entry in section 1(6)) provision—
- (a) to the effect that transfer to an authorised reclaim fund of an amount owing to a person which is dormant results in—
    - (i) the extinguishment of any right the person has to payment of the amount owing, and
    - (ii) the person having a right against the reclaim fund to payment of an amount,
  - (b) identifying when an amount is dormant, and
  - (c) identifying the amount to which the right against the reclaim fund as mentioned in paragraph (a)(ii) relates,

and may include provision dealing with anything relating to or arising from the provision required by paragraphs (a) to (c) (including definitions or other explanatory provision).

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- (3) Regulations made by virtue of subsection (1)(a) or (b)—
- (a) may frame a description of asset by reference to any characteristics of the asset, including the person owing the amount in question and the person to whom it is owed;
  - (b) may identify when an amount of a particular description is dormant by reference to any matters the maker of the regulations considers appropriate, which may be—
    - (i) matters relating to the asset, including the person owing the amount in question and the person to whom it is owed, or
    - (ii) matters relating to any other asset from which that amount is derived (whether by virtue of provision made under subsection (4) or otherwise), including the institution holding or providing it and its owner or beneficiary.
- (4) Regulations under this section may also make provision for, and in connection with, enabling an institution of a specified description to convert an asset of a particular description which is dormant into an amount owed to a person or persons, with a view to transferring the amount to an authorised reclaim fund.
- (5) The powers conferred by subsection (4) are exercisable only in connection with provision made under subsection (1)(a) or (b) bringing rights to payment of money owing as a result of conversion of assets of the description in question within the scope of the dormant assets scheme.
- (6) Provision under subsection (4) may provide for the description of asset concerned to be framed by reference to any characteristics of the asset, including the institution holding or providing it and the owner or beneficiary of it.
- (7) Provision under subsection (4) —
- (a) must identify when an asset of the description concerned is dormant, and
  - (b) may do so by reference to any matters the maker of the regulations considers appropriate, including matters relating to the asset, the institution holding or providing it or its owner or beneficiary.
- (8) In making provision under subsection (7) the maker of the regulations must have regard to the definitions of “dormant” applying to the various assets within the scope of the dormant assets scheme on the passing of this Act.
- (9) Regulations under this section may not—
- (a) exclude any assets from the dormant assets scheme that are within its scope on the passing of this Act, or
  - (b) alter the definitions of dormancy, as they apply to assets within the scope of the dormant assets scheme at that time.
- (10) Regulations under this section are subject to draft affirmative procedure.

*Alternative scheme for smaller banks and building societies*

## **20 Return of surplus alternative scheme assets**

After section 2 of the 2008 Act (transfer of balances to charities, with proportion to reclaim fund) insert—

## **“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).”

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*Unwanted assets consisting of a right to payment*

**21 Unwanted assets**

- (1) This section applies to a person who has a right to payment of any of the following amounts—
- (a) the balance of a bank or building society account (see section 8 of the 2008 Act);
  - (b) eligible insurance proceeds;
  - (c) eligible pension benefits;
  - (d) an amount owing by virtue of a collective scheme investment;
  - (e) eligible client money;
  - (f) eligible proceeds or distribution.
- (2) Where—
- (a) a person to whom this section applies—
    - (i) has informed the institution owing the amount that the person wishes the amount owing, or part of it, to be transferred to an authorised reclaim fund instead of being paid to the person, and
    - (ii) has made a declaration that no third party has any right in or over the amount,
  - (b) the institution transfers the amount, or the relevant part of it, to an authorised reclaim fund, and
  - (c) the reclaim fund consents to the transfer,
- the right to payment of the amount owing is either extinguished or reduced accordingly (as the case may be).
- (3) If the amount is owed to more than one person, subsection (2) applies as if the reference to a person were a reference to all of them (whether acting together or separately).
- (4) In this section, “third party” means a person other than the institution owing the amount or a person to whom the amount is owed.

*Provisions applicable to more than one scheme*

**22 Third party rights and interests**

- (1) A third party who, immediately before a transfer to an authorised reclaim fund, had a right or an interest in or over an asset that was extinguished as a result of the transfer has (in place of that right or interest) an equivalent right or interest in or over the right to payment which replaces the extinguished asset.
- (2) In this section—
- “third party” means a person other than the reclaim fund, the institution making the transfer or a person with a right to payment by virtue of whichever of sections 1(2)(b) and 2(2)(b) of the 2008 Act and sections 2(2)(b), 5(2)(b) or (3)(b), 8(2)(b), 12(2)(b) and 14(2)(b) above applies to the case;
- “transfer” means a transfer as mentioned in section 1(1)(a) or 2(1)(a) of the 2008 Act or section 2(1)(a), 5(1)(a), 8(1)(a), 12(1)(a) or 14(1)(a) above.

- (3) This section does not apply to transfers mentioned in section 1(1)(a) or 2(1)(a) of the 2008 Act which are made before this section comes into force (but nothing in this section is to be read as affecting the law applicable to such transfers).

## **23 Arrangements between reclaim fund and institutions**

- (1) An authorised reclaim fund may only accept transfers of any description from an institution if the reclaim fund has made contractual or other arrangements with the institution that the reclaim fund considers to be a satisfactory basis for accepting transfers of that description.
- (2) The arrangements must include provision requiring the taking of steps by the institution, whether before or after a transfer is made, for reuniting assets with their owners.
- (3) The steps required must consist of or include steps to be taken (subject to any exceptions of the kind mentioned in subsection (5)(a)) before a transfer is made with a view to tracing, and verifying the identity of, either (or both) of the following—
- (a) the person whose right to payment (or right to direct payment) would be extinguished by the transfer;
  - (b) where the asset to be transferred is the proceeds of another asset, the owner or beneficiary of that other asset.
- (4) Subsections (2) and (3) do not apply in relation to transfers made by virtue of section 21(2)(b).
- (5) The arrangements may, in particular—
- (a) provide for exceptions from any requirement to take steps to trace, and verify the identity of, a person mentioned in subsection (3)(a) or (b);
  - (b) provide for the institution to act as the reclaim fund’s agent for particular purposes;
  - (c) specify circumstances in which the reclaim fund is to be taken to have consented to a transfer;
  - (d) make different provision for different cases or circumstances.
- (6) Any exception agreed under subsection (5)(a) must relate to circumstances in which it is considered disproportionate, or otherwise unnecessary, for the steps in question to be taken.
- (7) In this section—
- “institution” means an institution which is by virtue of the relevant transfer provision capable of making transfers of any description;
  - “transfer” means a transfer of an amount to an authorised reclaim fund as mentioned in any of the following transfer provisions, that is to say section 1(1)(a) or 2(1)(a) of the 2008 Act or section 2(1)(a), 5(1)(a), 8(1)(a), 12(1)(a), 14(1)(a) or 21(2)(b) above.

## **24 Effect of insolvency etc of institutions**

- (1) Subsection (2) applies where, after a person has acquired a right to payment against an authorised reclaim fund by virtue of section 1(2)(b) or 2(2)(b) of the 2008 Act or section 2(2)(b), 5(2)(b) or (3)(b), 8(2)(b), 12(2)(b) or 14(2)(b) above—

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- (a) the institution against whom the person had a right to payment before it was replaced by the acquired right is dissolved or wound up; or
- (b) for any other reason the liability that the institution would have had to the person in relation to the replaced right (but for the transfer to the reclaim fund) is altered.

The reference in this subsection to a right to payment under section 1(2)(b) or 2(2)(b) of the 2008 Act does not include a right acquired before this section comes into force.

- (2) The person's right to payment is limited to the amount that would (but for the transfer to the reclaim fund) be recoverable by the person in respect of the replaced right, whether from the institution or from any other source (such as a compensation scheme).
- (3) If at any time after the acquisition of the right to payment a different person ("the successor") has assumed responsibility for the liabilities of the institution, the references in subsections (1) and (2) to the institution are to the successor.

## 25 Disclosure of information

- (1) Nothing in this Act or the 2008 Act requires or authorises a disclosure of information that would contravene the data protection legislation (but in determining whether a disclosure would do so, duties imposed and powers conferred by this Act or the 2008 Act are to be taken into account).
- (2) Otherwise, no obligation as to secrecy or other restriction on disclosure (however imposed) prevents a participating institution from giving an authorised reclaim fund any information needed by the reclaim fund to enable it to plan for or deal with repayment claims.
- (3) In this section —
  - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act);
  - “participating institution” means an institution with whom the authorised reclaim fund has made arrangements as mentioned in section 23;
  - “repayment claims” means claims against the reclaim fund relating to a right to payment arising as mentioned in section 1(2)(b) or 2(2)(b) of the 2008 Act or section 2(2)(b), 5(2)(b) or (3)(b), 8(2)(b), 12(2)(b) or 14(2)(b) above.

*Provisions relating to more than one scheme*

## 26 Meaning of “authorised reclaim fund”

- (1) In this Act and the 2008 Act “authorised reclaim fund”, in relation to a transfer of an amount as mentioned in section 1(1)(a) or 2(1)(a) of the 2008 Act or section 2(1)(a), 5(1)(a), 8(1)(a), 12(1)(a), 14(1)(a) or 21(2)(b) above, means a reclaim fund (as defined in section 5 of the 2008 Act) which is—
  - (a) a reclaim fund to which this subsection applies, in relation to a transfer of the kind in question, and
  - (b) authorised for the purposes of the Financial Services and Markets Act 2000 to carry on activities of a reclaim fund.

- (2) Subsection (1) applies to Reclaim Fund Ltd (registered company 07344884) in relation to all transfers mentioned in subsection (1).
- (3) The Treasury may by regulations made by statutory instrument amend subsection (2) for the purpose of—
  - (a) adding, substituting or removing a reference to a reclaim fund, or
  - (b) providing for the kinds of transfer in respect of which a reclaim fund named in that subsection is an authorised reclaim fund.
- (4) Regulations under subsection (3) are subject to draft affirmative procedure.

## **27 Treasury loans**

- (1) Any loan made by the Treasury to, or in respect of, an authorised reclaim fund in the circumstances mentioned in subsection (2) is to be made out of money provided by Parliament.
- (2) The circumstances are that the Treasury consider that, unless the loan is made, the reclaim fund is or is likely to become unable to meet its liabilities.

## **28 Exclusion of repayment claims from financial services compensation scheme**

- (1) In consequence of section 27, the Financial Services and Markets Act 2000 (Financial Services Compensation Scheme) Order 2013 ([SI 2013/598](#)) (which sets out the cases in which rules establishing the financial services compensation scheme may be made) is amended as follows.
- (2) In article 2 (cases in which rules may be made by the PRA), omit paragraph (1)(a)(ii) (and the “and” preceding it).
- (3) In article 3 (cases in which rules may be made by the FCA)—
  - (a) the words from “those claims” to the end become paragraph (a), and
  - (b) at the end insert “, and
    - (b) claims against an authorised reclaim fund (as defined in section 26 of the Dormant Assets Act 2022).”
- (4) The claims against an authorised reclaim fund excluded from the financial services compensation scheme by virtue of this section include any repayment claim relating to a right to payment arising by virtue of section 1(2)(b) or 2(2)(b) of the 2008 Act before this section comes into force (and it is immaterial whether the claim is made before or after that time).

### *Distribution of dormant assets money*

## **29 Distribution of dormant assets money for meeting English expenditure**

- (1) After section 18 of the 2008 Act (distribution of money for meeting English expenditure) insert—

### **“18A Distribution of money for meeting English expenditure**

- (1) The Secretary of State may by order—

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- (a) make provision restricting the purposes for which, or the kinds of person to which, a distribution of dormant assets money for meeting English expenditure may be made, or
    - (b) provide that no specific restrictions are to have effect under paragraph (a) in relation to such a distribution.
  - (2) An order under this section may make transitional or saving provision in connection with provision made under subsection (1)(a) or (b).
  - (3) Before making an order under this section the Secretary of State must—
    - (a) carry out a public consultation about the purposes for which, or the kinds of person to which, the money apportioned under section 17 for meeting English expenditure should be distributed, and
    - (b) consult the Big Lottery Fund about a draft of the order.
  - (4) In carrying out the first public consultation under subsection (3)(a) the Secretary of State must invite views as to whether the permitted distributions should be, or include, any one or more of the following—
    - (a) distributions for the purpose of the provision of services, facilities or opportunities to meet the needs of young people;
    - (b) distributions for the purpose of the development of individuals' ability to manage their finances or the improvement of access to personal financial services;
    - (c) distributions to social investment wholesalers (within the meaning of section 18);
    - (d) distributions to community wealth funds.
  - (5) For the purposes of subsection (4) “community wealth fund” means a fund which gives long term financial support (whether directly or indirectly) for the provision of local amenities or other social infrastructure.
  - (6) An order under this section may not be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, both Houses of Parliament.”
- (2) At the time specified in subsection (3)—
    - (a) section 18 of that Act is repealed;
    - (b) in section 22(6)(b) of that Act (directions) omit “section 18 or” and after “under section” insert “18A,”.
  - (3) Subsection (2) takes effect when—
    - (a) any restriction imposed under section 18A(1)(a) of that Act comes into force, or
    - (b) the provision mentioned in section 18A(1)(b) of that Act comes into force, whichever occurs first.
  - (4) The power to make transitional or saving provision under section 18A(2) of that Act includes power to make such provision in connection with the provision made by subsection (2).

### **30 Periodic review and report to Parliament**

- (1) The Secretary of State must carry out periodic reviews of the following matters—



- (a) the operation of the dormant assets scheme and the alternative scheme under section 2 of the 2008 Act during the period to which the review relates;
  - (b) the effectiveness of the steps taken during that period (by institutions holding or providing assets within the scope of the dormant assets scheme or the alternative scheme) to reunite assets with their owners;
  - (c) any use made of the powers conferred by section 19 during that period;
  - (d) any use that may be made of those powers after that period.
- (2) In reviewing the matters described in subsection (1)(a) the Secretary of State must consider—
- (a) how many institutions have made transfers;
  - (b) how much money has been transferred;
  - (c) the effectiveness of the arrangements made with institutions for meeting repayment claims.
- (3) The steps referred to in subsection (1)(b) include anything done with a view to tracing, and verifying the identity of, either (or both) of the following, in relation to a particular asset—
- (a) the person whose right to payment (or right to direct payment) is or would be extinguished by a transfer;
  - (b) where the asset is the proceeds of another asset, the owner or beneficiary of that other asset (before its conversion into proceeds).
- (4) In subsections (2) and (3)—
- “transfer” means a transfer of an amount to an authorised reclaim fund as mentioned in section 1(1)(a) or 2(1)(a) of the 2008 Act or section 2(1)(a), 5(1)(a), 8(1)(a), 12(1)(a) or 14(1)(a) above;
- “repayment claim” means a claim against an authorised reclaim fund relating to a right to payment arising as mentioned in section 1(2)(b) or 2(2)(b) of the 2008 Act or section 2(2)(b), 5(2)(b) or (3)(b), 8(2)(b), 12(2)(b) or 14(2)(b) above.
- (5) The matters within the scope of a review do not include the regulation by the Financial Conduct Authority of an authorised reclaim fund or any other institution.
- (6) The Secretary of State must—
- (a) make arrangements to enable anyone with an interest in any aspect of a review to make representations,
  - (b) consider all representations received, and
  - (c) set out the results and conclusions of the review in a report and lay it before Parliament.
- (7) The report of a review must also include—
- (a) information about the uses made by any authorised reclaim fund of its financial resources during such period as the Secretary of State considers appropriate,
  - (b) information about the uses made of dormant assets money for meeting English expenditure during such period as the Secretary of State considers appropriate,
  - (c) the text of any directions given by the Secretary of State under section 22 of the 2008 Act which have effect during the period mentioned in paragraph (b), and

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- (d) information about any policy and practice in relation to the additionality principle of—
  - (i) the body or bodies specified in section 16(1) of the 2008 Act, and
  - (ii) the Secretary of State, in exercising functions under Part 2 of that Act.
- (8) The report of a review may include information about the uses made of dormant assets money for meeting Welsh expenditure, Scottish expenditure or Northern Ireland expenditure during such period as the Secretary of State considers appropriate.
- (9) In this section—
  - (a) “the additionality principle” is the principle that dormant assets money should be used to fund projects, or aspects of projects, for which funds would be unlikely to be made available by a government department, the Welsh Ministers, the Scottish Ministers or a Northern Ireland department;
  - (b) “dormant assets money”, “English expenditure”, “Northern Ireland expenditure”, “Scottish expenditure” and “Welsh expenditure” have the same meaning as in Part 2 of the 2008 Act.
- (10) The first report under this section must be laid no more than 3 years after the day on which this Act is passed.
- (11) Any subsequent report must be laid no more than 5 years after the day on which the previous report was laid.