

Dormant Assets Bill [HL]

[This provisional Marshalled List includes all amendments tabled for Day 1 onwards. A revised Marshalled List will be produced if necessary following the conclusion of proceedings on Day 1. Neither amendments nor members' names may be added between the two.]

PROVISIONAL SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 1

BARONESS BARRAN

- 1** Page 2, line 2, at end insert –
“(3A) In subsection (3)(a) “amount owing” includes an amount available to be paid as benefits under a personal pension scheme (see section 6(1)(c) and (3)).”

Member’s explanatory statement

This would ensure that the overview of the dormant assets scheme in Clause 1 reflects Clause 6, which covers amounts available to be paid as pension benefits even though the owner has not made an election as to how the benefits are to be received.

- 2** Page 2, line 17, after “of” insert “(or to elect how to receive)”

Member’s explanatory statement

This would ensure that the description of pension assets in Clause 1(5)(c) includes the right to elect how to receive pension benefits.

- 3** Page 2, line 22, leave out from first “of” to “any”

Member’s explanatory statement

This would remove words in the description of client money assets in Clause 1(5)(e) that are unnecessary in the light of the government amendment at page 2, line 45 and consequential changes proposed to be made by the government amendments to Clause 12.

LORD BASSAM OF BRIGHTON

4 Page 2, line 26, at end insert –

“(5A) Additional assets may be added to the scheme using powers under section 19, including where this is recommended by a report laid under section (Requirement to review the operation of the dormant assets scheme).”

Member’s explanatory statement

This amendment makes clear that the list of assets in Clause 1(5) may not be exhaustive, given the existence of the Clause 19 power and the Government’s commitment to keep included asset classes under review.

BARONESS BARRAN

5 Page 2, line 45, at end insert –

“(9) In this Part –

- (a) any reference to an amount owing (or payable) to a person includes a reference to an amount which is not immediately payable to the person only because it is necessary for a request for payment to be made or for the person’s entitlement to payment to be verified, and
- (b) any reference to the right to payment of an amount owing (or payable) includes, in the case of an amount described in paragraph (a), the right to request payment of the amount.”

Member’s explanatory statement

This would ensure that the provisions of Part 1 relating to transfers of dormant assets to an authorised reclaim fund cover not only cases where an amount is payable immediately (i.e. as a debt) but also cases where the person entitled to an amount needs to request payment, or that person’s entitlement needs to be verified, before the amount becomes payable immediately.

Clause 2

BARONESS BARRAN

6 Page 3, line 8, leave out “were” and insert “are”

Member’s explanatory statement

This would correct an inconsistency between Clause 2(2)(a) and corresponding provisions elsewhere in Part 1, such as Clause 8(2)(a).

Clause 3

BARONESS BARRAN

7 Page 3, line 27, after “are” insert “(subject to subsections (2) and (2A))”

Member’s explanatory statement

This amendment is consequential on the government amendment at page 3, line 35.

8 Page 3, line 28, leave out from “insurance” to “, after”

Member’s explanatory statement

This amendment is consequential on the government amendment at page 3, line 35.

- 9 Page 3, leave out line 35 and insert –
“(2A) Proceeds of a contract of long-term insurance held in a Lifetime ISA are excluded from subsection (1) if their transfer to an authorised reclaim fund would result in liability to pay a withdrawal charge to HMRC.”

Member’s explanatory statement

This would secure that insurance proceeds held in a Lifetime ISA are excluded from “eligible insurance proceeds” only when their transfer to a reclaim fund would trigger liability to a withdrawal charge payable to HMRC.

Clause 5

BARONESS BARRAN

- 10 Page 5, line 9, leave out “were” and insert “are”

Member’s explanatory statement

This would correct an inconsistency of expression between Clause 5(2)(a) and corresponding provisions elsewhere in Part 1, such as Clause 8(2)(a).

Clause 7

BARONESS BARRAN

- 11 Page 6, line 43, leave out “the person mentioned in subsection (2)(a) or” and insert “a person mentioned in subsection”

Member’s explanatory statement

This would correct two minor errors in Clause 7(3)(b)(ii). The reference to subsection (2)(a) is unnecessary and should be removed. And “a person” at the beginning is more accurate than “the person”, as there may be no person of the kind mentioned.

- 12 Page 7, line 14, leave out “proceeds” and insert “benefits”

Member’s explanatory statement

This would correct a minor verbal error in Clause 7(5)(c), which should refer to “the benefits” i.e. the pension benefits mentioned in the opening words of Clause 7(5).

Clause 9

BARONESS BARRAN

- 13 Page 8, leave out line 17

Member’s explanatory statement

This amendment is consequential on the government amendment at page 8, line 30.

- 14 Page 8, line 18, after “is” insert “(subject to subsection (3A))”

Member’s explanatory statement

This amendment is consequential on the government amendment at page 8, line 30.

- 15 Page 8, line 30, at end insert –
“(3A) An amount held in a Lifetime ISA is excluded from subsection (3) if its transfer to an authorised reclaim fund would result in liability to pay a withdrawal charge to HMRC.”

Member’s explanatory statement

This would secure that an amount held in a Lifetime ISA is excluded from “eligible amount owing by virtue of a collective investment” only when its transfer to a reclaim fund would trigger liability to a withdrawal charge payable to HMRC.

- 16 Page 8, line 43, leave out “a sub-fund of an OEIC,” and insert “an umbrella company sub-fund,”

Member’s explanatory statement

This would amend Clause 9(5)(a) so that it applies in the case of a wound-up OEIC or sub-fund of an OEIC which is an “umbrella company”. The term “umbrella company sub-fund” is defined in the text proposed to be inserted by the government amendment leaving out paragraphs 9(6)(b) and (c) on page 9.

- 17 Page 9, line 6, leave out “a sub-fund” and insert “an umbrella unit trust scheme sub-fund”

Member’s explanatory statement

This would amend Clause 9(5)(b) so that it applies in the case of a wound-up unit trust scheme or a terminated sub-fund of an umbrella unit trust scheme. The term “umbrella unit trust scheme sub-fund” is defined in the text proposed to be inserted by the government amendment leaving out paragraphs 9(6)(b) and (c) on page 9.

- 18 Page 9, line 16, after “scheme” insert “sub-fund”

Member’s explanatory statement

This would amend Clause 9(5)(c) so that it applies in the case of a wound-up authorised contractual scheme or a terminated sub-fund of an umbrella co-ownership scheme. The term “umbrella co-ownership scheme sub-fund” is defined in the text proposed to be inserted by the government amendment leaving out paragraphs 9(6)(b) and (c) on page 9.

- 19 Page 9, line 25, leave out “; “umbrella co-ownership scheme””

Member’s explanatory statement

The amendment would leave out words rendered redundant by text proposed to be inserted by the government amendment leaving out paragraphs 9(6)(b) and (c) on page 9.

- 20 Page 9, line 27, leave out paragraphs (b) and (c) and insert –
 “(b) “umbrella company sub-fund” means a separate part of the property of an umbrella company that is pooled separately;
 (c) “umbrella unit trust scheme sub-fund” means a separate part of the property of an umbrella unit trust that is pooled separately;
 (d) “umbrella co-ownership scheme sub-fund” means a separate part of the property of an umbrella co-ownership scheme that is pooled separately.”

Clause 9 - continued

(7) In subsection (6)–

“umbrella company” means an OEIC whose instrument of incorporation provides for pooling in relation to separate parts of the scheme property and whose shareholders are entitled to exchange rights in one part for rights in another;

“umbrella co-ownership scheme” means an authorised contractual scheme whose contractual scheme deed provides for pooling in relation to separate parts of the scheme property and whose unitholders are entitled to exchange rights in one part for rights in another; and

“umbrella unit trust scheme” means an authorised unit trust whose trust deed provides for pooling in relation to separate parts of the unit trust property and whose unitholders are entitled to exchange rights in one part for rights in another;

and in this subsection and subsection (6) references to pooling are to such pooling as is mentioned in section 235(3)(a) of FSMA 2000 (collective investment schemes).”

Member’s explanatory statement

This would define the terms “umbrella company sub-fund”, “umbrella unit trust scheme sub-fund” and “umbrella co-ownership scheme sub-fund”, as used in Clause 9(5).

Clause 12

BARONESS BARRAN

21 Page 11, line 2, after “money” insert “owing to a person”

Member’s explanatory statement

This is a drafting amendment to secure consistency of expression across Part 1 of the Bill in consequence of the proposed removal of subsection (3) of Clause 12 by the government amendment to page 11, line 14.

22 Page 11, line 5, leave out paragraph (a) and insert –

“(a) a person to whom the amount is payable immediately before the transfer ceases to have any right against any investment institution to payment of the amount, but”

Member’s explanatory statement

This is a drafting amendment to secure consistency of expression across Part 1 of the Bill in consequence of the proposed removal of subsection (3) of Clause 12 by the government amendment to page 11, line 14.

23 Page 11, line 12, leave out from “happened” to end of line 13

Member’s explanatory statement

This amendment is consequential on the government amendment to leave out subsection (3) of Clause 12.

24 Page 11, line 14, leave out subsection (3)

Member's explanatory statement

This amendment, with the other government amendments to Clause 12, would remove references to a person entitled to direct the payment of an amount of dormant eligible client money and brings Clause 12 in line with other similar provisions in Part 1. Cases where payment of a dormant amount needs to be requested, or entitlement verified, before an amount becomes owing (or payable) to a person will be covered by the government amendment to Clause 1 proposed at page 2, line 45.

- 25 Page 11, line 26, after “means” insert “(subject to subsection (5A))”

Member's explanatory statement

This amendment is consequential on the government amendment at page 11, line 31.

- 26 Page 11, line 31, at end insert –

“(5A) Client money held in a Lifetime ISA is excluded from subsection (5) if its transfer to an authorised reclaim fund would result in liability to pay a withdrawal charge to HMRC.”

Member's explanatory statement

This would exclude from “eligible client money” client money held in a Lifetime ISA at a time when its transfer to a reclaim fund would result in liability to pay a withdrawal charge to HMRC.

- 27 Page 11, line 32, leave out “subsection (5)” and insert “subsections (5) and (5A)”

Member's explanatory statement

This amendment is consequential on the government amendment at page 11, line 31.

Clause 13

BARONESS BARRAN

- 28 Page 11, line 37, leave out “relevant person” and insert “person to whom the amount is payable”

Member's explanatory statement

This amendment is consequential on the government amendment to leave out subsection (3) of Clause 12.

- 29 Page 11, line 39, leave out subsection (3)

Member's explanatory statement

This amendment is consequential on the government amendment to leave out subsection (3) of Clause 12.

- 30 Page 12, line 6, leave out “the relevant” and insert “a”

Member's explanatory statement

This amendment is consequential on the government amendment to leave out subsection (3) of Clause 12.

Clause 14

BARONESS BARRAN

- 31 Page 12, line 16, leave out “are owed” and insert “is payable”

Member’s explanatory statement

This would correct an inconsistency of expression between Clause 14(2)(a) and corresponding provisions elsewhere in Part 1, such as Clause 8(2)(a).

- 32 Page 12, line 26, leave out “Act—” and insert “section and sections 15 and 16—”

Member’s explanatory statement

This would limit the scope of the definitions in Clause 14(3) to Clauses 14 to 16, as there are other references in the Bill to a share for which the Clause 14(3) definition is inapt.

- 33 Page 12, leave out line 28

Member’s explanatory statement

This amendment is consequential on the government amendment at page 13, line 4.

Clause 15

BARONESS BARRAN

- 34 Page 12, line 38, leave out “held” and insert “registered”

Member’s explanatory statement

This would make the language in Clause 15(1) consistent with Clause 14(1)(a).

- 35 Page 12, line 38, after “means” insert “(subject to subsection (1A))”

Member’s explanatory statement

This amendment is consequential on the government amendment at page 13, line 4.

- 36 Page 13, line 4, at end insert—

“(1A) An amount held in a Lifetime ISA is excluded from subsection (1) if its transfer to an authorised reclaim fund would result in liability to pay a withdrawal charge to HMRC.”

Member’s explanatory statement

This would secure that an amount held in a Lifetime ISA is excluded from “eligible proceeds or distribution” only when its transfer to a reclaim fund would result in liability to pay a withdrawal charge to HMRC.

Clause 16

BARONESS BARRAN

- 37 Page 13, line 25, leave out “held” and insert “registered”

Member's explanatory statement

This would make the language in Clause 16(3)(a) consistent with Clause 14(1)(a).

Clause 17

BARONESS BARRAN

- 38 Page 14, line 4, leave out from beginning of line to “does” and insert “a transfer provision”

Member's explanatory statement

This amendment, with the government amendments at lines 9, 11, 14, 17 and 19 on page 14, would ensure that Clause 17 refers to the correct provisions of Part 1.

- 39 Page 14, line 9, leave out “subsection (2)(b) of that section” and insert “the corresponding right to payment provision”

Member's explanatory statement

See the explanatory statement for the government amendment at page 14, line 4.

- 40 Page 14, line 11, leave out from “in” to “(however” and insert “a transfer provision”

Member's explanatory statement

See the explanatory statement for the government amendment at page 14, line 4.

- 41 Page 14, line 14, leave out “a reference in subsection (2)(a) of that section” and insert “the reference in the corresponding extinguishing provision”

Member's explanatory statement

See the explanatory statement for the government amendment at page 14, line 4.

- 42 Page 14, line 17, leave out “owing,” and insert “by virtue of an extinguishing provision,”

Member's explanatory statement

This amendment would remove an unnecessary word in Clause 17(4) to ensure it applies correctly to a right to payment of the reclaim amount referred to in Clause 8(2)(b).

- 43 Page 14, line 19, leave out from “references” to end of line 20 and insert “to the institution in the transfer provision in question and the corresponding right to payment provision are to be read as references to the successor.

(5) In this section—

“extinguishing provision” means section 2(2)(a), 5(2)(a) or (3)(a), 8(2)(a), 12(2)(a) or 14(2)(a);

“right to payment provision” means section 2(2)(b), 5(2)(b) or (3)(b), 8(2)(b), 12(2)(b) or 14(2)(b); and

“transfer provision” means section 2(1)(a), 5(1)(a), 8(1)(a), 12(1)(a) or 14(1)(a).”

Member's explanatory statement

See the explanatory statement for the government amendment at page 14, line 4.

Clause 18

BARONESS BARRAN

44 Page 14, line 43, at end insert –

““withdrawal charge payable to HMRC” means a charge payable under paragraph 8 of Schedule 1 to the Savings (Government Contributions) Act 2017.”

Member’s explanatory statement

This would define “withdrawal charge payable to HMRC” by reference to the primary legislation governing Lifetime ISAs.

Before Clause 19

BARONESS NOAKES

45 Insert the following new Clause –

“Review of dormant assets scheme

- (1) The Secretary of State must carry out a review of the dormant assets scheme for the purposes of determining whether additional assets can be covered by the scheme.
- (2) The review must be carried out no later than 31 December 2026 and then at five year intervals.
- (3) The outcome of the review, including whether the regulation-making power in section 19 will be used, must be reported to both Houses of Parliament.”

Member’s explanatory statement

The amendment requires a review every 5 years with the aim of bringing further dormant assets into the scheme.

Clause 19

BARONESS BARRAN

46 Page 15, line 18, after “to” insert “payment of”

Member’s explanatory statement

This is a drafting amendment to secure greater consistency of expression in references to a person’s right to payment of a dormant amount owing.

Clause 22

BARONESS BARRAN

47 Page 18, line 19, after “5(2)(b)” insert “or (3)(b)”

Member’s explanatory statement

This would amend the definition of “third party” in Clause 22(2) so that it refers to claims arising by virtue of Clause 5(3)(b), as well as those arising by virtue of Clause 5(2)(b).

Clause 24

BARONESS BARRAN

48 Page 19, line 22, after “5(2)(b)” insert “or (3)(b)”

Member’s explanatory statement

This amendment would ensure that Clause 24(1) refers to claims arising by virtue of Clause 5(3)(b), as well as those arising by virtue of Clause 5(2)(b).

Clause 25

BARONESS BARRAN

49 Page 20, line 9, after “5(2)(b)” insert “or (3)(b)”

Member’s explanatory statement

This would amend the definition of “repayment claims” in Clause 25(3) so that it covers claims arising by virtue of Clause 5(3)(b), as well as those arising by virtue of Clause 5(2)(b).

After Clause 26

BARONESS NOAKES

BARONESS BOWLES OF BERKHAMSTED

50 Insert the following new Clause—

“Examination by Comptroller and Auditor General

- (1) The Comptroller and Auditor General (“the Comptroller”) may carry out examinations into the economy, efficiency and effectiveness with which Reclaim Fund Ltd has used its resources in discharging its functions.
- (2) An examination under this section may be limited to such functions (however described) of Reclaim Fund Ltd as the Comptroller considers appropriate.
- (3) Before carrying out an examination under this section, the Comptroller must consult Reclaim Fund Ltd.
- (4) The Comptroller may report to the House of Commons the results of any examination carried out under this section.”

Clause 27

BARONESS BOWLES OF BERKHAMSTED

BARONESS KRAMER

51 Page 20, line 33, at end insert—

- “(3) The provision in subsection (2) may be taken into consideration by an authorised reclaim fund when setting the amount of reserve that it holds in order to meet any reclaims.”

Member’s explanatory statement

This amendment is to probe the Government’s guarantee with a view to enabling a lower reserve: currently Reclaim Fund Ltd reserves 40% of its funds to meet any reclaims and releases the remainder to charity.

LORD BASSAM OF BRIGHTON

52 Page 20, line 33, at end insert –

- “(3) In the event of a loan being made by the Treasury, the Secretary of State must, as soon as practicable, lay before each House of Parliament a statement outlining –
- (a) the amount made available to the reclaim fund,
 - (b) a summary of the terms of the loan, and
 - (c) the reasons for the reclaim fund being unable to meet its liabilities.”

Member’s explanatory statement

This probing amendment seeks to understand what oversight mechanisms are available to Parliament in the event of Reclaim Fund Limited requiring monies from the Treasury.

After Clause 27

BARONESS NOAKES

53 Insert the following new Clause –

“Treasury guarantee

- (1) If the Treasury owns the whole of the share capital of an authorised reclaim fund it may guarantee the payment of repayment claims made by the reclaim fund.
- (2) If the Treasury issues a guarantee under subsection (1) the Treasury may agree with the reclaim fund that when it calculates –
 - (a) the amount of repayment claims that it is prudent to anticipate for the purposes of subsection (1)(b) of section 5 of the 2008 Act, or
 - (b) the amount of money to which it needs access to meet repayment claims that it is prudent to anticipate for the purposes of subsection (1)(c)(i) of section 5 of the 2008 Act,

the amounts may be determined taking account of the guarantee to the extent specified by the Treasury.”

Member’s explanatory statement

The amendment gives the Treasury a power to guarantee reclaim funds which could enable further funds to be distributed rather than be held as reserves against repayment claims.

Clause 29LORD HODGSON OF ASTLEY ABBOTTS
BARONESS KRAMER

54 Page 21, line 18, after “no” insert “other”

Clause 29 - continued

LORD HODGSON OF ASTLEY ABBOTTS
 BARONESS LISTER OF BURTERSETT
 LORD BLUNKETT
 BARONESS BENNETT OF MANOR CASTLE

55 Page 21, line 19, at end insert –

- “(1A) An order under this section must enable the creation of permanently endowed funds (to be known as “community wealth funds”) that may make grants and other payments to support the provision of social infrastructure to further the wellbeing of communities suffering from high levels of deprivation and low levels of social infrastructure.
- (1B) “Social infrastructure” means –
- (a) buildings or other assets owned or managed by organisations located in communities for the purposes of local residents’ meeting, socialising, accessing educational resources, or conducting other activities to improve their wellbeing, or
 - (b) organisations, whether incorporated or unincorporated, existing for the purposes set out in paragraph (a), (c), (d), (e), (f), (g), (i) or (j) of section 3(1) of the Charities Act 2011.”

LORD BASSAM OF BRIGHTON
As an amendment to the Amendment 55

56 In subsection (1A), after “that” insert “are independent of the Big Lottery Fund and”

Member’s explanatory statement

This amendment to the text tabled by Lord Hodgson would make it explicit that any new community wealth funds operate independently from the Big Lottery Fund, which currently disburses sums made available through the dormant assets scheme.

LORD BLUNKETT

56A★ Page 21, line 19, at end insert –

- “(1A) An order under this section must create provision to fund access to high quality and effective primary financial education.”

LORD BASSAM OF BRIGHTON
 BARONESS LISTER OF BURTERSETT
 LORD HODGSON OF ASTLEY ABBOTTS

57 Page 21, line 24, at end insert –

- “(aa) persons appearing to the Secretary of State to represent the interests of the charity sector,
- (ab) persons appearing to the Secretary of State to represent the interests of communities that –
- (i) have benefitted, or
 - (ii) may reasonably expect to benefit from funding under the scheme, and”

Member's explanatory statement

This probing amendment seeks to understand the consultation process envisaged by the Government when it wishes to exercise powers under Clause 29. It proposes including representatives of charities and communities, as the main beneficiaries of the scheme.

BARONESS KRAMER
BARONESS BARKER

58 Page 21, line 24, at end insert –

“(aa) the Treasury Committee of the House of Commons,
(ab) the Economic Affairs Committee of the House of Lords,
(ac) the public, and”

Member's explanatory statement

This amendment would expand the list of parties the Secretary of State would have to consult before making regulations under this section.

BARONESS LISTER OF BURTERSETT

59 Page 21, line 26, at end insert –

“(3A) A consultation taking place under subsection (3) must have a duration of at least 12 weeks.”

Member's explanatory statement

The amendment would ensure that the timescale for any consultation was at least the usual period of 12 weeks.

BARONESS KRAMER
BARONESS BOWLES OF BERKHAMSTED

60 Page 21, line 29, at end insert –

“(5) Any distribution of dormant assets money provided for under this section must be additional funding, and must not replace funds previously provided for by the Government.”

Member's explanatory statement

This amendment would require that any distribution of dormant assets money must be additional funding.

LORD BASSAM OF BRIGHTON

Lord Bassam of Brighton gives notice of his intention to oppose the Question that Clause 29 stand part of the Bill.

After Clause 29

LORD BASSAM OF BRIGHTON

61 Insert the following new Clause –

“Requirement to review the operation of the dormant assets scheme

- (1) Within two years of the day on which this Act is passed, and every five years thereafter, the Secretary of State must undertake a review of the operation of the dormant assets scheme.
- (2) The review under subsection (1) must include consideration of –

After Clause 29 - continued

- (a) the extent to which new dormant assets brought within scope of the scheme since the last review have contributed to meeting the scheme's underlying policy objectives, and
 - (b) whether additional new dormant assets should be brought within scope of the scheme.
- (3) Upon completion of each review, the Secretary of State must lay a document containing its findings before each House of Parliament."

Member's explanatory statement

This amendment would require periodic reviews of the operation of the dormant assets scheme. As well as assessing the impact of new assets brought within scope of the scheme since the previous review, the exercise would also require active consideration of what further assets could be included.

LORD ETHERTON

62 Insert the following new Clause—

“Review and report

- (1) The review and report to Parliament under section 14 of the 2008 Act (review and report to Parliament) extends to Part 1 of this Act.
- (2) The review and report must include details about—
 - (a) the amount and value of assets transferred from each of the categories in section 1(5),
 - (b) on what persons and activities those assets have been expended pursuant to the purposes of the dormant assets scheme, identifying the amount so expended in relation to each category of persons and activities, and what assets have been successfully claimed from the authorised reclaim fund by the persons entitled to the amount owing before the transfer to the reclaim fund.”

Member's explanatory statement

This amendment seeks to extend section 14 of the 2008 Act, which provides for a review and report on Part 1 of the 2008 Act by the Treasury to cover all the assets of the scheme, as expanded by the present Bill. The proposed amendment would also require the review and report to contain more details about the derivation and application of assets transferred to the reclaim fund.

BARONESS BARKER

63 Insert the following new Clause—

“Requirement to review the impact of the dormant assets scheme

- (1) Within three years of the day on which this Act is passed, and every three years thereafter, the Secretary of State must undertake a review of the impact of the dormant assets scheme.
- (2) The review under subsection (1) must include consideration of—
 - (a) the positive contribution that the use of dormant assets has made to people and communities in England,

After Clause 29 - continued

- (b) the positive contribution that the use of dormant assets has made to reducing inequality in England,
 - (c) the positive contribution that the use of dormant assets has made in developing the capacity of social enterprises and charities.
- (3) Upon completion of each review, the Secretary of State must lay a document containing its findings before each of House of Parliament.”

Member’s explanatory statement

This amendment would require a review every three years of the dormant assets scheme and the positive contribution it makes.

64 Insert the following new Clause –

“Eligible recipients of dormant assets funds

- (1) The Dormant Bank and Building Society Accounts Act 2008 is amended as follows.
- (2) In section 16(1), at end insert “to social enterprises and charities”.
- (3) In section 16(3), at end insert “to social enterprises and charities or to a body that will make grants or loans, or make or enter other arrangements for the purposes of complying with subsection (1), with social enterprises and charities”.

Member’s explanatory statement

This amendment would mean that all the holders of funds would have to be registered social enterprises and charities and that any bodies that received funding would have in turn to work with social enterprises and charities.

BARONESS BOWLES OF BERKHAMSTED
BARONESS KRAMER

65 Insert the following new Clause –

“Review and report to Parliament

- (1) The Treasury must carry out a review of –
 - (a) the operation of the dormant assets scheme, and
 - (b) the effectiveness of the efforts made by financial institutions to secure that those entitled to money in inactive accounts are made aware of the fact.
- (2) In reviewing the operation of the dormant assets scheme the Treasury shall in particular consider –
 - (a) how many banks and building societies have transferred balances from inactive accounts;
 - (b) how much money has been transferred and how promptly;
 - (c) how the money recovered by the scheme is spent;
 - (d) whether the dormant assets scheme offers value for money; and
 - (e) how the operational side of the scheme is functioning.

After Clause 29 - continued

- (3) The Treasury must make arrangements to enable anyone with an interest in any aspect of the review to make representations, and must consider all representations received.
- (4) The Treasury must set out the results and conclusions of the review in a report and lay it before Parliament.
- (5) The report must be laid within three years from the date on which this Act is passed, and every three years thereafter.”

Member’s explanatory statement

This amendment would require the Treasury to report on the operation of the dormant assets scheme every three years.

Schedule 1

BARONESS BARRAN

66 Page 24, line 7, at end insert –

“Financial Services and Markets Act 2000 (c. 8)

1A(1) Part 24 of FSMA 2000 (insolvency) is amended as follows.

- (2) In section 359 (administration order), in the definition of “authorised reclaim fund” in subsection (4), for the words from “means” to the end substitute “has the same meaning as in the Dormant Assets Acts 2008 to 2021 (see section 26 of the Dormant Assets Act 2021);”.
- (3) In section 369A (reclaim funds: service of petition etc on FCA and PRA), in subsection (3) for the words from “means” to the end substitute “has the same meaning as in the Dormant Assets Acts 2008 to 2021 (see section 26 of the Dormant Assets Act 2021)”.

Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544)

1B(1) Article 63N of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (activities of reclaim funds) is amended as follows.

- (2) In paragraph (1)–
 - (a) in sub-paragraph (b) for “account” substitute “assets”, and
 - (b) after sub-paragraph (b) insert “;
 - (c) dealing with unwanted asset money.”
- (3) In paragraph (2)–
 - (a) omit the first entry;
 - (b) after that entry insert –
 - ““dealing with unwanted asset money” means –
 - (a) the acceptance of transfers of amounts as mentioned in section 21(2)(b) of the Dormant Assets Act 2021, and

Schedule 1 - continued

- (b) dealing with those funds (so far as they are not needed for either of the purposes mentioned in section 5(1)(c)(ii) or (iii) of the Dormant Bank and Building Society Accounts Act 2008) with a view to their transfer to the body or bodies for the time being specified in section 16 of the Dormant Bank and Building Society Accounts Act 2008;”;
- (c) in the second entry, for ““dormant account funds”” substitute ““dormant assets funds”, “reclaim fund””;
- (d) in the third entry for the words from the beginning to “the management” substitute –
 - ““management of dormant assets funds” means –
 - (a) the acceptance of transfers of amounts as mentioned in section 1(1)(a) or 2(1)(a) of the Dormant Bank and Building Society Accounts Act 2008 or 2(1)(a), 5(1)(a), 8(1)(a), 12(1)(a) or 14(1)(a) of the Dormant Assets Act 2021,
 - (b) ”;
- (e) at the end of that entry insert “, and
 - (c) dealing with those funds with a view to the transfer of amounts to the body or bodies for the time being specified in section 16 of the Dormant Bank and Building Society Accounts Act 2008.””

Member’s explanatory statement

This amendment would insert a paragraph 1A (making two consequential amendments to references in the Financial Services and Markets Act 2000 to an authorised reclaim fund) and a paragraph 1B (amending the Regulated Activities Order to ensure it reflects the wider activities of a reclaim fund provided for by the Bill).

67 Page 24, line 18, at end insert –

- “3A (1) In section 1 (transfer of balances to reclaim fund), after subsection (2) insert –
- “(2A) A transfer of the balance of a dormant account as mentioned in subsection (1) does not itself –
 - (a) constitute a breach of trust or fiduciary duty affecting the balance, or
 - (b) give rise to any other liability of any kind (whether against the transferring bank or building society, the reclaim fund or any other person involved), other than the liability of the reclaim fund arising by virtue of subsection (2)(b).”
 - (2) The amendment made by sub-paragraph (1) does not apply in relation to a transfer made before it comes into force.”

Member’s explanatory statement

This would make provision in section 1 of the Dormant Bank and Building Society Accounts Act 2008 corresponding to Clause 17(1) of the Bill.

- 68 Page 25, line 4, after “transfer” insert “to the body or bodies for the time being specified in section 16(1)”

Member’s explanatory statement

This would clarify that a transfer in pursuance of section 5(1)(ca) of the Dormant Bank and Building Societies Act 2008 (as inserted by paragraph 5(2)(c) of Schedule 1 to the Bill) is to be made to the body or bodies specified in section 16(1) of the 2008 Act.

- 69 Page 25, line 6, leave out from “2021” to end of line 7 and insert “, except in so far as any of it is needed for the purpose mentioned in paragraph (c)(ii) or (iii);”

Member’s explanatory statement

This would ensure that unwanted assets money does not have to be transferred to the body or bodies specified in section 16(1) to the extent that the reclaim fund needs to retain any of it to meet regulatory solvency requirements or to use it to meet relevant expenses.

- 70 Page 25, line 9, leave out from “(7)” to end of line 10

Member’s explanatory statement

This would remove an unnecessary reference to the deduction of expenses, so that section 5(1)(cb) as inserted by paragraph 5(2)(c) of Schedule 1 to the Bill is consistent with section 2A(7) as inserted by Clause 20.

- 71 Page 25, line 22, after “5(2)(b)” insert “or (3)(b)”

Member’s explanatory statement

This would amend the definition of “repayment claims” in section 5(6) of the Dormant Bank and Building Society Accounts Act 2008 so that it covers claims arising by virtue of Clause 5(3)(b) as well as those arising by virtue of Clause 5(2)(b).

- 72 Page 26, line 46, after “5(2)(b)” insert “or (3)(b)”

Member’s explanatory statement

This would amend paragraph 3(2)(a) of Schedule 1 to the Dormant Bank and Building Society Accounts Act 2008 so that it refers to Clause 5(3)(b) as well as Clause 5(2)(b).

Schedule 2

BARONESS BARRAN

- 73 Page 28, line 27, leave out “10(6)” and insert “9(5)”

Member’s explanatory statement

This would correct an erroneous cross-reference.

- 74 Page 28, line 34, after “share” insert “(in sections 14 to 16)”

Member’s explanatory statement

This amendment is consequential on the government amendment to Clause 14(3) at page 12, line 26.

75 Page 29, leave out lines 2 to 6

Member’s explanatory statement

This amendment is consequential on the government amendments to Clause 9.

76 Page 29, line 7, after “company” insert “(in sections 14 to 16)”

Member’s explanatory statement

This amendment is consequential on the government amendment to Clause 14(3) at page 12, line 26.

77 Page 29, leave out line 10 and insert –

“umbrella company sub-fund	section 9(6)(b) and (7)
umbrella co-ownership scheme sub-fund	section 9(6)(c) and (7)
umbrella unit trust scheme sub-fund	section 9(6)(d) and (7)”

Member’s explanatory statement

This amendment is consequential on the government amendments to Clause 9.

Dormant Assets Bill [HL]

PROVISIONAL SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

18 June 2021
