

Dormant Assets Bill [HL]

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

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 29

LORD HODGSON OF ASTLEY ABBOTTS
BARONESS KRAMER

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

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 –
 - (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),

After Clause 29 - continued

- (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,
 - (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.
- (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);”.

Schedule 1 - continued

- (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
 - (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.

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21 June 2021
