

DORMANT BANK AND BUILDING SOCIETY ACCOUNTS ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 2: Distribution of money under the general scheme

Section 16: Distribution of dormant account money by Big Lottery Fund

73. This section gives the Big Lottery Fund (“the Fund”) power to distribute for social or environmental purposes dormant account money passed to it by a reclaim fund. The Fund is a body corporate established by section 36A of the National Lottery etc Act 1993. The Fund is the largest of the distributors of lottery resources.
74. *Subsection (3)* allows the Fund to distribute assets to recipient bodies in the form of grants or loans, or through other arrangements.
75. *Subsection (5)* enables the Fund to distribute dormant account money to create endowments, including permanent endowments.

Section 17: Apportionment of dormant account money

76. This section allows the Secretary of State to set out by order the apportionment, in percentage terms, of dormant account money passed to the Fund by a reclaim fund to cover expenditure in England, Wales, Scotland and Northern Ireland. This is expected to be done on a per capita basis. It also sets out the formula for calculating the amount of dormant account money which will be available for apportionment in each financial year. This requires the deduction from the overall dormant account money received by the Fund from the reclaim fund of (a) the Fund’s expenses and (b) the Secretary of State’s expenses in overseeing the Fund. The amount after these deductions is the amount available for apportionment.

Sections 18- 21: Distribution of money for meeting English, Welsh, Scottish and Northern Ireland expenditure

77. *Section 16* sets out the overall purposes for which dormant account money may be distributed (i.e. social and environmental purposes). *Section 18* sets out two particular purposes, and one particular kind of recipient, for which the proportion of dormant account assets allocated for expenditure in England will be used.
78. The particular purposes, and kinds of recipient, for dormant account expenditure apportioned to the devolved administrations of Wales, Scotland and Northern Ireland have not yet been determined and will not be set out on the face of the Act. Instead, sections 19, 20 and 21 give Welsh Ministers, Scottish Ministers and the Northern Ireland Department of Finance and Personnel respectively the power to restrict the particular purposes for which, and the kind of person to whom, dormant account money apportioned to their country will be distributed.

79. It is envisaged that the particular purposes and recipients set out in section 18 for England and set out in orders for the other three countries will be specified further in directions given to the Fund by the Secretary of State or by the devolved administrations under section 22.

Section 22: Directions to Big Lottery Fund

80. This section requires the Fund to comply with any directions given to it by the Secretary of State and by the devolved administrations in relation to their devolved expenditure. The powers set out in this section are broadly similar to the powers to give directions under the National Lottery etc Act 1993, save that *subsection (3)(c) and (d)* adds that directions may relate to the process used to decide what payments to make and to the terms and conditions upon which the Fund makes loans or grants or enters into other arrangements. The Fund must be consulted before any direction is given under this section.
81. Only the Secretary of State has power to issue directions under *subsection (4)* relating to operational matters such as financial management, staffing and accounts.

Section 23: Power to prohibit distribution in certain cases

82. This section enables the Secretary of State, by order, to prohibit the Big Lottery Fund from distributing dormant account money to any person in certain circumstances. This power is designed to allow the Secretary of State to intervene in cases where there may be a perceived conflict of interest in the relationship between the Big Lottery Fund and a particular body.
83. *Subsection (2)* requires the Secretary of State to consult the devolved administrations before issuing an order that the Secretary of State considers could impact on expenditure or affect persons within Scotland, Wales and Northern Ireland.
84. *Subsection (4)* gives the Secretary of State the power to require the Fund to provide any information which the Secretary of State needs to assist in the exercise of the power of prohibition.

Section 24: Power to add or remove distributors

85. This section allows the Secretary of State to add or remove distribution bodies. This power may be exercised as a sanction for failure to comply with a direction given under section 22 or contravention of a prohibition order made under section 23. Alternatively, it may be exercised to add a distributor with particular expertise or to remove a distributor whose particular expertise is no longer required. This power is exercisable after consultation with the devolved administrations.

Section 25: Power of Big Lottery Fund to enter into arrangements

86. The Fund has only a limited power, under the National Lottery etc Act 1993, to hold and invest money in an interest-bearing account. Money is managed by the National Lottery Distribution Fund. This section gives the Fund the power to make arrangements for another body to hold or invest dormant account money allocated to it, on its behalf. Subsection (4)(a) of section 22 gives the Secretary of State the power to give directions restricting the nature of the arrangements into which the Fund can enter.
87. *Subsection (2)* enables a reclaim fund, following arrangements with the Fund, to make payments on the Fund's behalf directly to the Consolidated Fund to defray expenses incurred by the Secretary of State in carrying out functions under this Act. Similarly, it allows a reclaim fund and the Fund to arrange for the reclaim fund to make payments on the Fund's behalf to the devolved administrations, to defray expenses incurred by those administrations.

Section 26: Expenses

88. This section allows the Fund to defray any expenses incurred in carrying out its obligations set out in the Act. Such expenses will be deducted from dormant account money before it is apportioned for distribution.
89. This section also allows the Secretary of State to reclaim expenses incurred in carrying out the functions set out in this Act. The combined effect of section 17(3) and *subsection (3)* of this section is that these expenses are to be defrayed from dormant account money before apportionment for distribution, with the exception of expenses incurred in relation to the giving of directions for English expenditure. Subsection (3)(a) gives the Secretary of State the power to deduct these expenses from the sums apportioned for English spending. *Subsections (6) to (10)* give the devolved administrations the power to defray expenses incurred under the Act from the sums apportioned for distribution in their country.

Section 27: Interpretation of Part 2

90. This section defines a number of terms used in Part 2 of the Act.