



Charities Act 2011

2011 CHAPTER 25

PART 6

CY-PRÈS POWERS AND ASSISTANCE AND SUPERVISION OF CHARITIES BY COURT AND COMMISSION

Power to give directions about dormant bank accounts of charities

107 Power to direct transfer of credits in dormant bank accounts

- (1) The Commission may give a direction under subsection (2) where—
- (a) it is informed by a relevant institution—
 - (i) that it holds one or more accounts in the name of or on behalf of a particular charity (“the relevant charity”), and
 - (ii) that the account, or (if it so holds two or more accounts) each of the accounts, is dormant, and
 - (b) it is unable, after making reasonable inquiries, to locate that charity or any of its trustees.
- (2) A direction under this subsection is a direction which—
- (a) requires the institution concerned to transfer the amount, or (as the case may be) the aggregate amount, standing to the credit of the relevant charity in the account or accounts in question to such other charity as is specified in the direction in accordance with subsection (3), or
 - (b) requires the institution concerned to transfer to each of two or more other charities so specified in the direction such part of that amount or aggregate amount as is there specified in relation to that charity.
- (3) The Commission—
- (a) may specify in a direction under subsection (2) such other charity or charities as it considers appropriate, having regard, in a case where the purposes of the relevant charity are known to the Commission, to those purposes and to the purposes of the other charity or charities, but

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- (b) must not so specify any charity unless it has received from the charity trustees written confirmation that those trustees are willing to accept the amount proposed to be transferred to the charity.
- (4) Any amount received by a charity by virtue of this section is to be received by the charity on terms that—
 - (a) it is to be held and applied by the charity for the purposes of the charity, but
 - (b) as property of the charity, it is nevertheless subject to any restrictions on expenditure to which it was subject as property of the relevant charity.
- (5) The receipt of any charity trustees or trustee for a charity in respect of any amount received from a relevant institution by virtue of this section is a complete discharge of the institution in respect of that amount.

108 Accounts which cease to be dormant before transfer

- (1) This section applies where—
 - (a) the Commission has been informed as mentioned in section 107(1)(a) by any relevant institution, and
 - (b) before any transfer is made by the institution in pursuance of a direction under section 107(2), the institution has, by reason of any circumstances, cause to believe that the account, or (as the case may be) any of the accounts, held by it in the name of or on behalf of the relevant charity is no longer dormant.
- (2) The institution must without delay notify those circumstances in writing to the Commission.
- (3) If it appears to the Commission that the account or accounts in question is or are no longer dormant, it must revoke any direction under section 107(2) which has previously been given by it to the institution with respect to the relevant charity.

109 Dormant bank accounts: supplementary

- (1) No obligation as to secrecy or other restriction on disclosure (however imposed) precludes a relevant institution from disclosing any information to the Commission for the purpose of enabling the Commission to discharge its functions under sections 107 and 108.
- (2) For the purposes of sections 107 and 108 and this section, an account is dormant if no transaction, other than—
 - (a) a transaction consisting in a payment into the account, or
 - (b) a transaction which the institution holding the account has itself caused to be effected,
 has been effected in relation to the account within the period of 5 years immediately preceding the date when the Commission is informed as mentioned in section 107(1) (a).
- (3) For the purposes of sections 107 and 108 and this section, a “relevant institution” means—
 - (a) the Bank of England [^{F1}(acting otherwise than in its capacity as the Prudential Regulation Authority)],
 - (b) a person who has permission under [^{F2}Part 4A] of the Financial Services and Markets Act 2000 to accept deposits,

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^{F3}(c) or

(d) such other person who may lawfully accept deposits in the United Kingdom as may be prescribed by the [^{F4}Secretary of State].

(4) In subsection (3), paragraphs (b) to (d) are to be read with—

- (a) section 22 of the Financial Services and Markets Act 2000,
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.

(5) For the purposes of sections 107 and 108, references to the transfer of any amount to a charity are references to its transfer—

- (a) to the charity trustees, or
- (b) to any trustee for the charity,

as the charity trustees may determine (and any reference to any amount received by a charity is to be read accordingly).

(6) For the purpose of determining the matters in respect of which any of the powers conferred by sections 46 to 53 (inquiries and searches) may be exercised it is to be assumed that the Commission has no functions under section 107 or 108 in relation to accounts to which this subsection applies.

(This has the result that, for example, a relevant institution is not, in connection with the Commission's functions under sections 107 and 108, required under section 47(2)

(a) to provide any statements, or answer any questions or inquiries, with respect to any such accounts held by the institution.)

(7) Subsection (6) applies to accounts which—

- (a) are dormant accounts by virtue of subsection (2), but
- (b) would not be dormant accounts if subsection (2)(a) were omitted.

Textual Amendments

- F1** Words in s. 109(3)(a) inserted (1.3.2017) by [The Bank of England and Financial Services \(Consequential Amendments\) Regulations 2017 \(S.I. 2017/80\)](#), reg. 1, **Sch. para. 20**
- F2** Words in s. 109(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 136** (with [Sch. 20](#)); S.I. 2013/423, [Sch.](#)
- F3** S. 109(3)(c) omitted (31.12.2020) by virtue of [The EEA Passport Rights \(Amendment, etc., and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1149\)](#), reg. 1(3), **Sch. para. 42** (with reg. 4); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F4** Words in s. 109(3)(d) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), **Sch. 2 para. 25(2)(q)** (with art. 12)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 106(1)-(1B) substituted for s. 106(1) by [2022 c. 6 s. 16\(a\)](#)
- s. 322(2)(ea) inserted by [2022 c. 6 Sch. 2 para. 26](#)
- s. 331A331B and cross-heading inserted by [2022 c. 6 s. 15](#)