



# Dormant Bank and Building Society Accounts Act 2008

## 2008 CHAPTER 31

### PART 1

#### TRANSFER OF BALANCES IN DORMANT ACCOUNTS

##### *Interpretation etc*

#### 6 Interpretation of Part 1

In this Part—

“account” has the meaning given by section 9;

“authorised”, in relation to a reclaim fund, means authorised for the purposes of the Financial Services and Markets Act 2000 (c. 8);

“balance” has the meaning given by section 8;

“bank” has the meaning given by section 7;

“building society” means a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986 (c. 53);

“charity” means a body, or the trustees of a trust, established for charitable purposes only;

“dormant” has the meaning given by section 10;

“financial year”—

- (a) in relation to a company (other than a building society) within the meaning of the Companies Act 2006, has the meaning given in section 390(1) to (3) of that Act;
- (b) in relation to an undertaking that is not a company within the meaning of that Act (and is not a building society), has the meaning given in section 390(4) of that Act;
- (c) in relation to a building society, has the meaning given in section 117 of the Building Societies Act 1986;

“group” means a parent undertaking and its subsidiary undertakings;  
 “parent undertaking” and “subsidiary undertaking” have the same meaning as in the Companies Act 2006 (see section 1162 of that Act);  
 “reclaim fund” has the meaning given by section 5(1).

## 7 “Bank”

- (1) Subject to subsection (4), “bank” means an authorised deposit-taker that has its head office, or one or more branches, in the United Kingdom.
- (2) In subsection (1) “authorised deposit-taker” means—
  - (a) a person who under Part 4 of FSMA 2000 has permission to accept deposits;
  - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to FSMA 2000 that has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.
- (3) A reference in subsection (2) to a person or firm with permission to accept deposits does not include a person or firm with permission to do so only for the purposes of, or in the course of, an activity other than accepting deposits.
- (4) “Bank” does not include—
  - (a) a building society;
  - (b) a person who is specified, or is within a class of persons specified, by an order under section 38 of FSMA 2000 (exemption orders);
  - (c) a credit union;
  - (d) a friendly society.
- (5) In this section—
  - “credit union” has the same meaning as in the Credit Unions Act 1979 (c. 34) (see section 1(1) of that Act);
  - “friendly society” has the same meaning as in the Friendly Societies Act 1992 (c. 40) (see section 116 of that Act);
  - “FSMA 2000” means the Financial Services and Markets Act 2000 (c. 8).

## 8 “Balance”

- (1) The balance of a person’s account at any particular time is the amount owing to the person in respect of the account at that time, after the appropriate adjustments have been made for such things as interest due and fees and charges payable.
- (2) In relation to a time after a transfer has been made as mentioned in section 1(1) or transfers have been made as mentioned in section 2(1), the adjustments referred to in subsection (1) above include those that would fall to be made but for the transfer or transfers.

## 9 “Account”

- (1) “Account” means an account that has at all times consisted only of money.

- (2) A reference in this Part to an account held with a bank or building society is to an account provided by the bank or building society as part of its activity of accepting deposits.
- (3) In relation to a building society, “account” includes an account representing shares in the society, other than—
  - (a) preferential shares, or
  - (b) deferred shares within the meaning given in section 119(1) of the Building Societies Act 1986 (c. 53).

## **10 “Dormant”**

- (1) An account is “dormant” at a particular time if—
  - (a) the account has been open throughout the period of 15 years ending at that time, but
  - (b) during that period no transactions have been carried out in relation to the account by or on the instructions of the holder of the account.
- (2) But an account is to be treated as not dormant if at any time during that period—
  - (a) the bank or building society in question was under instructions from the holder of the account not to communicate with that person about the account, or
  - (b) under the terms of the account—
    - (i) withdrawals were prevented, or
    - (ii) there was a penalty or other disincentive for making withdrawals in all circumstances.
- (3) For the purposes of subsection (1) an account is to be treated as remaining open where it is closed otherwise than on the instructions of the holder of the account.
- (4) For the purposes of subsection (2)(b)(i) withdrawals are prevented if they are prevented except as permitted by provision made under subsection (4)(d) of section 3 of the Child Trust Funds Act 2004 (c. 6) (requirements to be satisfied by child trust funds).
- (5) The Treasury may by order amend the figure in subsection (1)(a).
- (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, each House of Parliament.