



# Dormant Assets Act 2022

## 2022 CHAPTER 5

### PART 2

#### OTHER PROVISIONS

*Provisions applicable to more than one scheme*

#### **22 Third party rights and interests**

- (1) A third party who, immediately before a transfer to an authorised reclaim fund, had a right or an interest in or over an asset that was extinguished as a result of the transfer has (in place of that right or interest) an equivalent right or interest in or over the right to payment which replaces the extinguished asset.
- (2) In this section—
  - “third party” means a person other than the reclaim fund, the institution making the transfer or a person with a right to payment by virtue of whichever of sections 1(2)(b) and 2(2)(b) of the 2008 Act and sections 2(2)(b), 5(2)(b) or (3)(b), 8(2)(b), 12(2)(b) and 14(2)(b) above applies to the case;
  - “transfer” means a transfer as mentioned in section 1(1)(a) or 2(1)(a) of the 2008 Act or section 2(1)(a), 5(1)(a), 8(1)(a), 12(1)(a) or 14(1)(a) above.
- (3) This section does not apply to transfers mentioned in section 1(1)(a) or 2(1)(a) of the 2008 Act which are made before this section comes into force (but nothing in this section is to be read as affecting the law applicable to such transfers).

#### **23 Arrangements between reclaim fund and institutions**

- (1) An authorised reclaim fund may only accept transfers of any description from an institution if the reclaim fund has made contractual or other arrangements with the institution that the reclaim fund considers to be a satisfactory basis for accepting transfers of that description.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The arrangements must include provision requiring the taking of steps by the institution, whether before or after a transfer is made, for reuniting assets with their owners.
- (3) The steps required must consist of or include steps to be taken (subject to any exceptions of the kind mentioned in subsection (5)(a)) before a transfer is made with a view to tracing, and verifying the identity of, either (or both) of the following—
  - (a) the person whose right to payment (or right to direct payment) would be extinguished by the transfer;
  - (b) where the asset to be transferred is the proceeds of another asset, the owner or beneficiary of that other asset.
- (4) Subsections (2) and (3) do not apply in relation to transfers made by virtue of section 21(2)(b).
- (5) The arrangements may, in particular—
  - (a) provide for exceptions from any requirement to take steps to trace, and verify the identity of, a person mentioned in subsection (3)(a) or (b);
  - (b) provide for the institution to act as the reclaim fund’s agent for particular purposes;
  - (c) specify circumstances in which the reclaim fund is to be taken to have consented to a transfer;
  - (d) make different provision for different cases or circumstances.
- (6) Any exception agreed under subsection (5)(a) must relate to circumstances in which it is considered disproportionate, or otherwise unnecessary, for the steps in question to be taken.
- (7) In this section—
 

“institution” means an institution which is by virtue of the relevant transfer provision capable of making transfers of any description;

“transfer” means a transfer of an amount to an authorised reclaim fund as mentioned in any of the following transfer provisions, that is to say section 1(1)(a) or 2(1)(a) of the 2008 Act or section 2(1)(a), 5(1)(a), 8(1)(a), 12(1)(a), 14(1)(a) or 21(2)(b) above.

## **24 Effect of insolvency etc of institutions**

- (1) Subsection (2) applies where, after a person has acquired a right to payment against an authorised reclaim fund by virtue of section 1(2)(b) or 2(2)(b) of the 2008 Act or section 2(2)(b), 5(2)(b) or (3)(b), 8(2)(b), 12(2)(b) or 14(2)(b) above—
  - (a) the institution against whom the person had a right to payment before it was replaced by the acquired right is dissolved or wound up; or
  - (b) for any other reason the liability that the institution would have had to the person in relation to the replaced right (but for the transfer to the reclaim fund) is altered.

The reference in this subsection to a right to payment under section 1(2)(b) or 2(2)(b) of the 2008 Act does not include a right acquired before this section comes into force.

- (2) The person’s right to payment is limited to the amount that would (but for the transfer to the reclaim fund) be recoverable by the person in respect of the replaced

right, whether from the institution or from any other source (such as a compensation scheme).

- (3) If at any time after the acquisition of the right to payment a different person (“the successor”) has assumed responsibility for the liabilities of the institution, the references in subsections (1) and (2) to the institution are to the successor.

## **25 Disclosure of information**

- (1) Nothing in this Act or the 2008 Act requires or authorises a disclosure of information that would contravene the data protection legislation (but in determining whether a disclosure would do so, duties imposed and powers conferred by this Act or the 2008 Act are to be taken into account).
- (2) Otherwise, no obligation as to secrecy or other restriction on disclosure (however imposed) prevents a participating institution from giving an authorised reclaim fund any information needed by the reclaim fund to enable it to plan for or deal with repayment claims.
- (3) In this section —

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act);

“participating institution” means an institution with whom the authorised reclaim fund has made arrangements as mentioned in section 23;

“repayment claims” means claims against the reclaim fund relating to a right to payment arising as mentioned in section 1(2)(b) or 2(2)(b) of the 2008 Act or section 2(2)(b), 5(2)(b) or (3)(b), 8(2)(b), 12(2)(b) or 14(2)(b) above.