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25 February 2022

## Dormant Assets Act 2022



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## Summary

The Dormant Assets Act 2022 was introduced as Bill 203 in the House of Lords on 12 May 2021. It passed Lords Third reading on 23 November and was introduced in the Commons the following day.

Commons Second reading was on Monday 6 December 2021 and an amended Bill emerged from Committee Stage after one sitting on 11 January 2022. Report stage and Third reading was on 31 January 2022.

Royal Assent was obtained on 24 February 2022. The Act extends to the whole of the UK.

## The scheme

The Government defines a dormant asset as a financial product (such as a bank account) that hasn't been used for many years and which the provider hasn't been able to reunite with its owner despite efforts aligned with industry best practice.

In 2008, the Dormant Bank and Building Society Accounts Act (the **2008 Act**) was passed to provide a system to distribute dormant assets to good causes. It applies to cash in UK bank and building society accounts that has been dormant for 15 years, and has so far distributed around £800 million.

The core principles of the scheme are that: (1) attempts should first be made to reunite assets with their rightful owners before transferring them; (2) owners should always be able to reclaim their funds; and (3) participation is voluntary. Funds should also not be used as a substitute for Government spending.

## Expansion

In late 2015 the Government appointed an independent commission to advise on expanding the scheme to include other dormant assets. The Dormant Assets Commission [recommended](#) expanding the scheme. An “industry champions” [report agreed](#) and recommended a phased approach to expansion.

The Government [launched a consultation](#) in February 2020 on the list of assets it proposed to expand the scheme to, with a tailored definition of

dormancy for each. The consultation attracted 89 responses, with “widespread support” for expansion.

## The Act

The Act significantly expands the scope of the existing scheme to cover a range of financial products, being long-term insurance products, certain pension assets, collective investment scheme assets, client money, and proceeds or distributions from shares in traded public companies. The [Government estimates](#) that this could allow a total of around £880 million to be released to good causes.

It also introduces a specific legal requirement for firms participating in the scheme to make attempts to reunite assets with their owners, before passing them into the scheme. In total, £2 billion of the £3.7 billion of dormant assets the Act could cover are expected to be reunited with their rightful owners. The remaining £1.7 billion will be transferred to a “reclaim fund”, which will reserve a proportion of the funds to ensure it can meet future claims and pass the rest on to be spent on good causes.

The Act consists of 34 sections and two schedules divided into three Parts. The Bill introduced in the House of Lords had only 33, but Clause 30 (now Section 30) was added to Part 2 at Lords Report Stage.

## Lords stages

The Act received cross-party support in its passage through the House of Lords, and passed all stages without a division. A large number of technical Government amendments were made at Committee stage on 21 June 2021.

At Report stage on 16 November, Lord Bassam (Labour) moved an amendment to “[enable orders](#) under Clause 29 [on the distribution of dormant asset money in England] to create community wealth funds as a means of tackling deprivation and building social infrastructure in left-behind communities.” The Government opposed the amendment, but it was approved by 216 votes to 195.

Two Government amendments were made at Report stage. The first inserted into Clause 29 a commitment to have a public consultation before changes can be made to the focus of the English portion of funds now or in the future. The second was the addition of current Section 30, which would “[require periodic reviews](#) of the dormant assets scheme and the alternative scheme, with a report to Parliament on the results”. Both were approved without a division.

## Commons stages

Second reading took place on 6 December without a division, and Committee stage concluded in one sitting on 11 January 2022.

Seven amendments were tabled, and two were made (both tabled by Parliamentary Under Secretary of State at the Department for Digital, Culture, Media and Sport Nigel Huddleston) during Committee. The [first amendment](#) removed provisions inserted at Lords Report stage on the distribution of scheme assets to community wealth funds. The amendment was carried along party lines by ten votes to six. The second amendment made was a procedural one that removed the Lords [privilege amendment](#), in accordance with convention.

Three further amendments were tabled at Report stage on 31 January 2022. One opposition amendment was withdrawn, and the remaining two (both Government amendments) were made without a division. The first of these was a “minor and technical” amendment to Clause 12 clarifying that money from collective scheme investments cannot be transferred into the scheme as client money.

The second amended Clause 29 to list causes that must be included in the Government’s consultation on the use of scheme money in England. The consultation now must include community wealth funds as well as the three existing purposes set out in the 2008 Act (youth, financial inclusion and social investment).

The Bill received its Third reading immediately after Report stage without a division.

## Lords consideration of Commons amendments

The House of Lords considered the four amendments made to the Bill during its passage through the Commons on 9 February 2022. All amendments were approved without a division, although some peers [expressed regret](#) at the removal of the amendment inserted at Lords Report stage on community wealth funds, and its replacement at Commons Report stage with what they viewed as a weaker version.

With the Bill having now passed all stages in both Houses, Royal Assent was obtained on 24 February 2022.

## Reaction

The Act's core measures enjoyed cross-party support during its passage through Parliament, and support from industry stakeholders including trade body UK Finance, the Association of British Insurers, the National Council of Voluntary Organisations and Social Enterprise UK.

# 1 Background

The Dormant Assets Act 2022 was introduced as Bill 203 in the House of Lords on 12 May 2021. It passed Lords third reading on 23 November and was introduced in the Commons the following day.

Commons Second reading was on Monday 6 December 2021 and an amended Bill emerged from Committee Stage after one sitting on 11 January 2022. Report stage and Third reading was on 31 January 2022.

Royal Assent was obtained on 24 February 2022. The Act extends to the whole of the UK.

Further background information can be found in the House of Lords Library briefing on the [Dormant Assets Bill \[HL\]](#) (19 May 2021).

## 1.1 The scheme

### What is a dormant asset?

The Government defines a dormant asset as a financial product (such as a bank account) that hasn't been used for many years and which the provider hasn't been able to reunite with its owner despite efforts aligned with industry best practice.<sup>1</sup>

In 2008, the Dormant Bank and Building Society Accounts Act (the **2008 Act**) was passed to provide a system to distribute dormant assets to good causes.

### How does the scheme work?

The initial scheme under the 2008 Act applied only to cash in bank and building society accounts which have been dormant for 15 years. It has so far distributed over £800 million.<sup>2</sup>

The scheme was founded on three principles which the Government is committed to maintaining:

1. **Reunification first:** participants' first priority is to trace and reunite people with their assets;

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<sup>1</sup> Department for Digital, Culture, Media and Sport, [The Dormant Assets Scheme](#), last updated 18 January 2021

<sup>2</sup> [HL Deb 26 May 2021, vol 812 col 1033](#)



2. **Full restitution:** asset owners are able, at any point, to reclaim the amount that would have been due to them had a transfer into the scheme not occurred; and
3. **Voluntary participation:** potential participants can choose whether to contribute to the scheme and to what extent.

As at 24 February 2022, 35 banks and building societies participate in the scheme, including all major high street banks.<sup>3</sup> Over £300 million was transferred to the scheme in 2011, but as the scheme has reached a mature stage this was expected (without the expansion in the Act) to decrease to around £42 million per year.<sup>4</sup>

Under the 2008 Act, the scheme was initially set up by the financial services industry, supported by the Government. It was administered by a company called Reclaim Fund Limited (RFL), which was originally part of the Co-operative Group. RFL became a non-departmental public body (owned by the Treasury) in March 2021 after the Office for National Statistics decided to reclassify RFL as part of central government.<sup>5</sup> RFL's costs so far have been covered by investment returns on the assets it receives.<sup>6</sup>

At present, RFL receives the money from the participating bank or building society and then makes an assessment of how much it needs to retain to meet potential future claims from the asset owners. It then passes the surplus to the National Lottery Community Fund who in turn distributes the money to beneficiary organisations. In line with the Barnett formula, funding is apportioned between England (84%), Scotland (8%), Wales (5%) and Northern Ireland (3%).<sup>7</sup> RFL currently reserves around 40% of assets it receives, but in practice around 7.5% of dormant assets transferred have been reclaimed by customers.<sup>8</sup>

The 2008 Act states that the dormant assets must be used for causes with a "social or environmental purpose".<sup>9</sup> The devolved administrations are then empowered to give directions on the types of organisations that can receive funding, but in England the 2008 Act further specified that the funds must be directed to youth projects, financial inclusion or social investment.<sup>10</sup>

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<sup>3</sup> Department for DCMS, [Measures to release £880 million from dormant assets to boost opportunities across the country](#), 24 February 2022

<sup>4</sup> Ibid, col 1034

<sup>5</sup> Reclaim Fund, [RFL Moves to New Ownership Structure](#), 30 March 2021

<sup>6</sup> Adrian Smith, [Expanding dormant assets scheme will help tackle financial exclusion](#), FT Adviser, 15 July 2020, p2

<sup>7</sup> House of Lords Library, [Dormant Assets Bill \[HL\]](#), 19 May 2021

<sup>8</sup> Department for Digital, Culture, Media and Sport and HM Treasury, [Dormant Assets Bill: factsheet one: bill overview](#), 13 May 2021

<sup>9</sup> 2008 Act, s. 16

<sup>10</sup> Ibid, s.18

## 1.2

## 2022 Act: pre-legislative background

**2014:** The 2008 Act required the Treasury to publish a review of the 2008 Act within three years from when a reclaim fund was first authorised. Published in 2014, the review concluded the scheme was “efficient and working well”.<sup>11</sup>

**2015-2017:** In late 2015 the Government announced it would appoint an independent commission to identify new pools of assets that could be brought into the scheme. The Dormant Assets Commission consulted with around 200 organisations and reported in March 2017 that (i) the key principles of the existing scheme should be reaffirmed; (ii) the current scheme should be expanded to include a much wider range of financial assets, including additional bank accounts, unclaimed proceeds from life insurance and pensions products, and non-cash assets such as dormant holdings in investment funds, shares and bonds; (iii) RFL should be reformed to reduce the possibility of its objectives being influenced by being part of a corporate group (the Co-operative Group); and (iv) new legislation should be passed to enable these recommendations.<sup>12</sup>

Overall, the Commission estimated that broadening the range of financial assets within the scheme could lead to an extra £1-2 billion being transferred for good causes.<sup>13</sup> In its response in February 2018 the Government agreed there was “significant potential to expand the dormant assets scheme” but said change should be led by industry, so committed to appoint “industry champions” to conduct further work.<sup>14</sup>

**2019:** The four industry champions (from businesses Aviva, Lloyds, M&G and Tesco) were appointed in 2018. Their report in April 2019 emphasised four key principles:

- the first priority should always be to seek to reunite owners with their assets before transferring them to the scheme;
- the scheme should always be voluntary;
- in an expanded scheme, customers should still be able to reclaim the amount owed to them, even after it had been transferred; and
- there should be tailored definitions of dormancy for different products.

They also recommended a phased approach to expanding the scheme. The first phase would involve preparatory work and establishing a supportive legislative framework; the second phase would focus on the actual inclusion

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<sup>11</sup> HM Treasury, [Review of the Dormant Bank and Building Society Accounts Act 2008](#), March 2014, para 4.2

<sup>12</sup> Commission on Dormant Assets, [Tackling Dormant Assets: Recommendations to Benefit Investors and Society](#), 3 March 2017, Executive Summary

<sup>13</sup> *Ibid*, p9

<sup>14</sup> Department for Digital, Culture, Media and Sport et al, [Government Response to the Commission on Dormant Assets’ Report on Tackling Dormant Assets: Recommendations to Benefit Investors and Society](#), 16 February 2018, pp 2-3

of additional assets in the scheme; and subsequent phases would then focus on further expansion to more complex assets.<sup>15</sup>

**2020:** In February 2020 the Government published a consultation on expanding the scheme. It set out the list of assets it proposed to include (similar to that in the Act, but initially excluding pension assets because of recent changes in the area) and definitions of dormancy for each.<sup>16</sup> The Government response to the consultation, published in January 2021, noted that the consultation received 89 responses and showed “widespread support” for expansion of the scheme. The Government also agreed to consider including certain pension products in its upcoming Bill to expand the scheme, which the industry champions and consultation responses had supported, in “specific and tightly prescribed circumstances”.<sup>17</sup>

Section 2 of the House of Lords Library briefing [Dormant Assets Bill \[HL\]](#) (19 May 2021) discusses the pre-legislative background in more detail.

## 1.3 The changes

The Act significantly expands the scope of the existing scheme to cover a wider range of financial products, being long-term insurance products, certain pension assets, collective investment schemes, client money, and proceeds or distributions from shares in traded public companies. The Government estimates that expansion to these asset classes will allow around £880 million to be released to good causes.<sup>18</sup> Each asset has its own tailored definition of when it becomes dormant, and the Government has the power to bring more assets into the scheme through secondary legislation in future.

The Act also introduces a specific legal requirement for firms participating in the scheme to make attempts to reunite assets with their owners, before passing them into the scheme. In total, £2 billion of the £3.7 billion of dormant assets the Act covers are expected to be reunited with their rightful owners.<sup>19</sup> Certain changes are also being made to reflect RFL’s reclassification as a public body (such as removing it from the scope of the Financial Services Compensation Scheme).

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<sup>15</sup> Department for Digital, Culture, Media and Sport and HM Treasury, [The dormant assets scheme: a blueprint for expansion](#), 4 April 2019, Executive Summary

<sup>16</sup> HM Treasury and Department for Digital, Culture, Media and Sport, [Consultation on Expanding the Dormant Assets Scheme](#), 21 February 2020, Section 2

<sup>17</sup> HM Treasury and Department for Digital, Culture, Media and Sport, [Government Response to the Consultation on Expanding the Dormant Assets Scheme](#), 9 January 2021, Executive Summary and p17

<sup>18</sup> Department for Digital, Culture, Media and Sport and HM Treasury, [Dormant Assets Bill: factsheet one: bill overview](#), 13 May 2021 (updated 24 November 2021)

<sup>19</sup> Ibid

## 2 Explanation of the Act

This section was originally written during the Bill's passage through the House of Commons. It therefore refers to the Act as proposed legislation.

The Bill consists of 34 clauses and two schedules divided into three Parts. The Bill introduced in the House of Lords had only 33 clauses, but clause 30 was added to Part 2 at Lords Report Stage. Once passed, the Bill would be read as one Act together with the 2008 Act.<sup>20</sup>

### 2.1 Part 1: Dormant Assets Scheme (clauses 1 to 18)

Part 1 deals with the expansion of the existing scheme, including details of how it would operate for each new asset being included.

#### Overview (clause 1)

**Clause 1** sets out the scope of the expanded dormant assets scheme and the assets within its scope. The scheme would cover six classes of assets:

- Bank and building society accounts (as is currently the case under the existing scheme);
- Long-term insurance assets;
- Pension assets;
- Investment assets;
- Client money assets; and
- Securities.

Clause 1 also mentions the alternative scheme, which is currently in place for smaller institutions and allows payments to be made directly to local charities. This scheme is currently used by two institutions<sup>21</sup> and its scope is not being extended by the Bill.

<sup>20</sup> Clause 34(5)

<sup>21</sup> Reclaim Fund Limited, [The alternative scheme](#), accessed 1 December 2021

Each of the new asset classes is then addressed specifically in the rest of Part 1.

### Long-term insurance assets (clauses 2 to 4)

**Clause 2** clarifies the type of insurance company that would be able to use the scheme and those that would not. For example, mutual insurers are excluded. **Clause 3** specifies that the assets to be transferred would be the cash proceeds of a contract, plus interest, minus fees and expenses. Thus, a non-cash asset would have to be converted to cash before the transfer. The following insurance contracts would be excluded from the scheme: with-profits policies, industrial assurance policies, those subject to a trust and lifetime ISAs (if their transfer would result in liability to pay a withdrawal charge to HMRC).

**Clause 4** sets out the definition of dormancy for long-term insurance assets. This is that any one of the following four is met:

- the policyholder has died and the insurer is satisfied there is nobody to whom the proceeds are payable;
- seven years have passed since the insurer was notified of the policyholder's death and the insurer has not been contacted by the administrators of the estate or the beneficiary;
- the policyholder would be at least 120 years old and, in the previous seven years, the insurer has not been contacted by administrators of the estate or the beneficiary; or
- the period of the contract ended at least seven years previously and the insurer has not been contacted by the beneficiary, or anyone acting on their behalf, in that time.

### Pension assets (clauses 5 to 7)

**Clause 5** is similar to clause 2 in form but applies to pension assets. It would also exclude mutual insurers from the scheme. **Clause 6** defines the types of pension policy that would be available to transfer under the scheme. These are benefits in the form of income withdrawals from a personal pension, and benefits from certain personal pensions, either already payable or available to become payable. Again, the Bill would exclude policies in with-profits form.

**Clause 7** states the definition of dormancy for pension assets, which is similar to that in clause 4:

- the policyholder has died and the pension provider is satisfied there is nobody to whom the proceeds are payable or who is entitled to receive payment;
- seven years have passed since the provider was notified of the policyholder's death and the provider has not been contacted by the administrators of the estate, the beneficiary or any potential beneficiary;
- the policyholder would be at least 120 years old and, in the previous seven years, the provider has not been contacted by administrators of the estate, the beneficiary or any potential beneficiary; or

- pension benefits became payable at least seven years previously because the contract ended and the provider has not been contacted by the beneficiary, or anyone acting on their behalf, in that time.

### Investment assets (clauses 8 to 11)

**Clause 8** includes collective investment scheme assets in the dormant assets scheme and clarifies the type of investment institutions which would be able to use the scheme (generally those authorised to carry out certain investment activities).

**Clause 9** defines the types of asset that would be available to transfer. These are any monies held in, or distributions from: authorised open-ended investment companies (OEICs); authorised unit trusts; and authorised contractual schemes. Assets held in lifetime ISAs would be excluded if their transfer would result in liability to pay a withdrawal charge to HMRC.

The proposed definition of dormancy for investment assets (**Clause 10**) is that the asset manager regards the person to whom the proceeds are payable as ‘gone-away’ throughout the preceding 12 years (for share or unit conversion proceeds), or 6 years (for any other amounts). A person is regarded as “gone-away” if the asset manager has received no communication from them or someone on their behalf; the Explanatory Note state that this is a standard industry term.<sup>22</sup>

**Clause 11** clarifies that the amount that would be available to reclaim from the scheme would be the same as if the transfer to the scheme had not occurred, with allowance for interest and fees.

### Client monies (clauses 12 and 13)

**Clause 12** would include client money assets in the scheme. This is monies an investment firm receives from, or holds for, or on behalf of, a client in the course of its investment business. Lifetime ISAs would, again, be excluded if their transfer would result in liability to pay a withdrawal charge to HMRC. The proposed definition of dormancy for client money (**Clause 13**) is that the institution holding the money regards the person who is owed the money, or who can direct the institution to pay the money, as being gone-away throughout the preceding six years.

### Securities assets (clauses 14 to 16)

**Clause 14** would include securities assets in the scheme. These are assets relating to shares in traded public companies which are registered in the name of an individual, such as cash from the sale of the share or dividend payments (**Clause 15**). Lifetime ISAs are again excluded if their transfer would result in a withdrawal charge. The proposed definition of dormancy for securities assets is that the company regards the shareholder as being gone-away throughout the preceding 12 years (**Clause 16**).

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<sup>22</sup> Explanatory Notes, para 79

### Miscellaneous provisions (clauses 17 and 18)

**Clause 17** details various related matters, such as stating that if the asset owner dies, the right to reclaim an amount from the scheme would pass on to a beneficiary of their estate. **Clause 18** defines various terms used in Part 1.

## 2.2

## Part 2: other provisions

### Extension to further assets (clause 19)

**Clause 19** would provide the Secretary of State or the Treasury powers to make regulations to extend the scheme to further asset classes. It sets out various matters any such regulations should cover, for example the definition of dormancy for the new asset. It would also permit changes to the current classes, although not to exclude any existing assets from scope or alter their definitions of dormancy. Any such regulations could amend primary legislation (a Henry VIII power) and would be subject to the draft affirmative parliamentary procedure.

### Alternative scheme (clause 20)

**Clause 20** relates to the alternative scheme for smaller institutions. It would allow RFL to transfer surplus assets back to these institutions if it decides to reduce the needs to reserve for future reclaims. Funds returned to institutions would need to be distributed to local charities or charities with a “special connection” with that institution.

### Unwanted Assets (clause 21)

**Clause 21** provides for the situation in which the owner of an asset has been located, but does not want the asset (for example, because it is a small amount) or elects to give some or all of it to the fund. The clause allows such assets to be donated to the scheme. Certain conditions would need to be met; for example, that no other person has a right in the asset. It also provides that once an asset has been donated, it cannot subsequently be reclaimed.

### General provisions (clauses 22 to 30)

**Third parties: Clause 22** would allow a third party that has a legitimate claim on an asset whose value has been transferred to the scheme to have a right of reclaim from it.

**Arrangements and tracing: Clause 23** would make it a requirement for firms to have “satisfactory” contractual or other arrangements with the reclaim fund to join the scheme. It also specifies that these arrangements must include that members of the scheme must make attempts to reunite assets with their owners; the 2008 Act does not include this requirement.

**Insolvency: Clause 24** would provide for reclaims to be made from the scheme if the company that transferred the assets to it became insolvent. It

would limit the level of claims to that which the customer would have received from the company in its insolvency (i.e. if the transfer had not occurred), which may be less than the original claim.

**Disclosure:** Under **Clause 25**, firms in the scheme would be permitted to transfer confidential information to the reclaim fund for the purpose of meeting reclaims. However, this provision does not override data protection legislation.

**Authorised reclaim funds:** **Clause 26** states that RFL is the authorised reclaim fund for the scheme, but that the Treasury (using the draft affirmative procedure) can add, substitute or remove authorised reclaim funds. This would involve amending primary legislation (a Henry VIII power) and would be subject to the draft affirmative procedure.

Following the reconstitution of RFL as a non-departmental public body owned by the Treasury, **Clause 27** provides that the Treasury can make a loan to an authorised reclaim fund in the event of its insolvency. As a result, **Clause 28** would remove authorised reclaim funds from the scope of the Financial Services Compensation Scheme.

**Distribution of monies:** **Clause 29** would amend the approach in the 2008 Act for distributing dormant assets money in England, to align it with that used in Scotland, Wales and Northern Ireland. It enables the Secretary of State to make secondary legislation determining the types of social and environmental purposes to which funding can be distributed in England. The Secretary of State must consult with The Big Lottery Fund and (following a Government amendment at Lords Report Stage) have a public consultation before making such legislation, which would be subject to the draft affirmative procedure.

Following an amendment tabled by Labour peer Lord Bassam at Lords Report stage (see section 3.3), one option explicitly contemplated in the clause was the creation of “community wealth funds” to make grants to support “social infrastructure”.<sup>23</sup> However, this provision was removed by a Government amendment at Commons Committee stage (see section 4.2) and replaced at Commons Report stage (see section 4.3) by a provision requiring the Government to consult on using English scheme monies to benefit community wealth funds as well as the three existing purposes set out in the 2008 Act (youth, financial inclusion and social investment).

**Report to Parliament:** **Clause 30** was added at Lords Report Stage. It was tabled by the Government and passed without a division. It requires the Secretary of State to carry out periodic reviews of the operation of the scheme, the effectiveness of steps taken to reunite owners with assets, and any extension of the scheme (or possible future extension) to further asset classes. The Secretary of State must make arrangements for interested

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<sup>23</sup> Explanatory Notes, paras 141-146



parties to make representations ahead of the review, and then set out the results of the review to Parliament.

The review report must include information about the use by the authorised reclaim funds of its financial resources, expenditure of the monies, and policy and practice on the “additionality principle” – the idea that that dormant assets money should be used to fund projects for which funds would be unlikely to be made available by Government.

The first review must be laid before Parliament within three years after the Bill receives Royal Assent, with subsequent reports a maximum of every five years thereafter.

## 2.3

### Part 3: final provisions

**Secondary legislation:** **Clause 31** deals with the Government’s power to make secondary legislation under the Bill and clarifies that where the Bill provides accordingly this power would include the ability to amend primary legislation (through Henry VIII powers) (for example, amending the clause on unwanted assets to ensure it covers new assets brought into the scheme).<sup>24</sup>

**Consequential amendments:** **Clause 32** repeals certain parts of the 2008 Act and incorporates Schedule 1, which makes “minor and consequential” amendments (including amendments to the Financial Services and Markets Act 2000). **Clause 33** incorporates Schedule 2, which contains an index of defined terms in the Bill and sets out where each is defined.

**Extent, commencement etc.:** lastly, **Clause 34** states that the Bill extends UK-wide, and comes into force on a day chosen by the Secretary of State.

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<sup>24</sup> Ibid, paras 147-148

## 3 Lords Stages

This section explains the Act's passage through the House of Lords. It therefore refers to the Act as proposed legislation.

### 3.1 Second reading

There was wide cross-party support for the Bill at its Second reading, and the Bill passed without a division. A total of 25 peers participated in the debate.

Baroness Barran (then Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport) introduced the Bill at Second reading on 26 May 2021. She noted the Government's "mission to support industry efforts to reunite owners with lost money and to provide a practical way for unclaimed and unwanted funds to be put to good use".<sup>25</sup>

Lord Blunkett (Labour) said that he gave the Bill "a very warm welcome"<sup>26</sup>. Baroness Fleet (Conservative), giving her maiden speech, gave her "full support" to the Bill's extension of the scheme.<sup>27</sup> Lord Adonis (Labour) said he "cannot think of any good reason why anyone would oppose" the Bill.<sup>28</sup> Lord Vaizey (Conservative) agreed it was "hard to think of any reason to oppose the Bill, although there may be opportunities to improve some of its detail".<sup>29</sup>

Baroness Barker (Liberal Democrat) said that "on one level it is impossible to object to" the Bill, but that there are "some assumptions behind the Bill that the House should look at before we give the Government the freedom to go ahead".<sup>30</sup>

Baroness Wheatcroft (Crossbencher) raised concerns that institutions were not being put under enough pressure to reunite assets with their owners before transferring them into the scheme.<sup>31</sup>

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<sup>25</sup> [HL Deb 26 May 2021, vol 812](#), col 1035-6

<sup>26</sup> *Ibid*, col1037

<sup>27</sup> *Ibid*, col1045

<sup>28</sup> *Ibid*, col1041

<sup>29</sup> *Ibid*, col1046

<sup>30</sup> *Ibid*, col1038

<sup>31</sup> *Ibid*, col1040

Baroness Bowles (Liberal Democrat) welcomed the Bill but raised concerns that the Bill's ability to expand to further asset classes could create incentives for industry to develop tailored definitions of dormancy and "gone-away" which would allow them to transfer money to the scheme more easily, to the possible detriment of asset owners.

She also questioned why the Bill does not impose fiduciary duties on directors in relation to decisions to transfer dormant assets, and the justification for removing the underlying objective for how assets should be removed in England from the primary legislation.<sup>32</sup> The Earl of Devon (Crossbencher) also raised "particular concern" about the removal of the objective for asset distribution from primary legislation.<sup>33</sup>

Baroness Noakes (Conservative) welcomed the Bill but raised concerns that the current scheme structure was restricting the amounts released for good causes by taking an overly cautious approach, which should not be as necessary now that RFL had become officially a public sector body. She also asked the Government to switch from using private-sector auditors for the RFL to the Comptroller and Auditor-General (National Audit Office), as is done for most public bodies.<sup>34</sup>

Lord Hodgson (Conservative) raised concerns about the powers to make secondary legislation, which receive far less scrutiny, in particular in relation to the power to add new asset classes under clause 19 and to make legislation on the distribution of dormant assets under clause 29.<sup>35</sup>

Baroness Bennett (Green) welcome the Bill, referring to it as "a sensible use for money parked in obscure places doing nothing".<sup>36</sup> But suggested "there should be a legal duty to see this money directed towards the most disadvantaged areas of the country".<sup>37</sup>

Lord Bassam (Labour Shadow Spokesman) voiced his support for the Bill but asked for assurance that the scheme's extension would not be used as a rationale to scale back other initiatives. He also asked whether the Government would consider extending the scheme to non-financial products like Government land disposals.<sup>38</sup>

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<sup>32</sup> Ibid, col1048-49

<sup>33</sup> Ibid, col1050

<sup>34</sup> Ibid, col1054-5

<sup>35</sup> Ibid, col1060-2

<sup>36</sup> Ibid, col1067

<sup>37</sup> Ibid, col1068

<sup>38</sup> Ibid, col1080-2

## 3.2 Committee stage

Lords Grand Committee sat on 21 and 23 June 2021. Unlike in the Commons, voting is not allowed at Committee stage so any decisions must be made unanimously.<sup>39</sup>

### First sitting

On 21 June, the Committee debated a number of [technical Government amendments](#)<sup>40</sup> which fell into three categories. According to the Minister, Baroness Noakes, the first category of amendments clarified that “amounts owing or payable to a person include those which are not immediately owing or payable until some action is taken”. The second category “clarify that orphan moneys would arise in the context of a sub-fund of an umbrella structure” The third were “that lifetime ISA provisions apply in the context of access restrictions and to client moneys; in other words, restrictions on assets held within lifetime ISAs apply when their transfer to the Reclaim Fund Ltd would trigger a withdrawal charge payable to HMRC.” Baroness Barran clarified that “in no way do these amendments change the policy intent of the Bill”, she is not expecting many more Government amendments,

Lord Bassam (Labour) expressed concern about the number of Government amends and that “that there may be other hidden gremlins in the legislation that we are not yet aware of.”<sup>41</sup>

In the first sitting, the Committee agreed Government amendments 1 to 3, 5 to 44 and 46 to 49, and adjourned after clause 28 was agreed to.

### Second sitting

In the second sitting, a number of non-Government amendments were tabled to enable “specific causes to be supported in the Bill”<sup>42</sup>. Other amendments sought “further commitment and clarity regarding Clause 29 and the statutory duty to consult.”<sup>43</sup> Baroness Kramer also tabled an amendment (Amendment 60) to safeguard the additionality principle – that dormant assets “money will not be used as a substitute for taxes and public spending”.<sup>44</sup> Baroness Barker tabled an amendment (Amendment 64) that “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.”<sup>45</sup> All were withdrawn after failing to get Government support.

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<sup>39</sup> UK Parliament, [Grand Committees](#), accessed 2 December 2021

<sup>40</sup> See the [List of Amendments to be Moved in Grand Committee](#), amendments 1 to 3, 5 to 44 and 46 to 49

<sup>41</sup> [HL Deb 23 June 2021, vol 813, col 4GC](#)

<sup>42</sup> Ibid, col89GC

<sup>43</sup> Ibid, col99GC

<sup>44</sup> Ibid, col102GC

<sup>45</sup> Ibid, col106GC

Some further technical Government amendments (66 to 72 and 73 to 77) were agreed without debate.<sup>46</sup>

## 3.3 Report stage and third reading

### Report stage

Report stage took place on 16 November 2021, five months after Committee stage, by which time Lord Parkinson had replaced Baroness Barran as The Parliamentary Under-Secretary of State, in the Department for Digital, Culture, Media and Sport.

#### Amendments pressed to a division

Lord Bassam tabled Amendment 1, which “would enable orders under Clause 29 to create community wealth funds as a means of tackling deprivation and building social infrastructure in left-behind communities. It would mandate the Secretary of State to establish and review the effectiveness of one or more pilot schemes which would run over at least ten years.”<sup>47</sup> Baroness Kramer, Lord Hodgson, The Lord Bishop of Ely, Baroness Lister, Baroness Bennett and Baroness Barker spoke in support of the amendment. For the Government, Lord Parkinson opposed the amendment on the basis that it was “too soon to commit to including [Community Wealth Funds] as an explicit option in legislation”<sup>48</sup> and that this option should be left for the Government’s future consultation on how to distribute English dormant assets.

Lord Bassam opted to press the amendment to a division, in which the amendment passed by 216 votes to 195.

Baroness Kramer tabled Amendment 6, which “would require the Secretary of State to certify that dormant assets money would be additional to, and not replacing, Government spending.” Lord Bassam, Baroness Barker also spoke in support. She pressed the amendment to a division after the Government opposed it, and the amendment was defeated by 164 votes to 192.<sup>49</sup>

#### Other amendments

##### Successful amendments

Government Amendment 3 inserted into clause 29 a commitment to have a public consultation before changes can be made to the focus of the English portion of funds now or in the future. This was after a number of peers “tabled and signed amendments in Committee which sought to broaden the range of

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<sup>46</sup> Ibid, col110GC-113GC

<sup>47</sup> [HL Deb 16 November 2021, vol816, col168](#)

<sup>48</sup> Ibid, col177

<sup>49</sup> Ibid, col192-200

consultees listed in Clause 29 of the Bill”. The amendment passed without a division.<sup>50</sup>

Lord Parkinson moved Government Amendment 7 (current clause 30), which would “require periodic reviews of the dormant assets scheme and the alternative scheme, with a report to Parliament on the results.” This was put forward after the Government “carefully considered the different concerns raised about the need for the dormant assets scheme to be periodically reviewed and reported on to Parliament”.<sup>51</sup> It was passed without a division.

### Unsuccessful amendments

Baroness Kramer tabled amendment 2, which would “ensure that a distribution of dormant assets money must be to an organisation that has an overall aim of delivering public good and must not be used to enhance investor returns”. Her amendment was supported by Baroness Bennett, Lord Bassam and Baroness Barker. Lord Parkinson opposed the amendment on the basis that the Government had committed to “a public consultation to welcome wide-ranging views on how these funds can best have an impact on social and environmental priorities in England”, leading Baroness Kramer to withdraw the amendment.<sup>52</sup>

Baroness Kramer also tabled Amendment 9, which would “require the Government to undertake a review of the capacity of the Oversight Trust [an arm’s length body which monitors the performance of distribution bodies] and make a recommendation as to whether further legislation is needed to improve its effectiveness.” She withdrew the amendment after the Government opposed it on the basis that it is considering the best approach to considering good scheme governance, including potentially “asking the Oversight Trust to consider expanding its role to oversee any additional bodies if necessary and appropriate”.<sup>53</sup>

### Third reading

Third reading took place on 23 November 2021, where the Bill passed without a division. Lord Parkinson (for the Government) reiterated that the Bill “is set to unlock almost £1 billion of additional funding to ensure that the scheme continues to support innovative, long-term initiatives that seek to address some of the UK’s most important challenges.” For Labour, Lord Bassam expressed his “support [for] the Bill as it goes on its way”. For the Liberal Democrats, Baroness Barker praised the changes made to the Bill during its passage in the House of Lords, including by ensuring greater reporting requirements for those involved in the scheme.<sup>54</sup>

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<sup>50</sup> Ibid, col 187-193

<sup>51</sup> Ibid, col 201-207

<sup>52</sup> Ibid, col182-186

<sup>53</sup> Ibid, col207-211

<sup>54</sup> [HL Deb 23 November 2021, vol816, col740-742 for all quotes](#)

## 4 Commons stages

This section explains the Act's passage through the House of Commons. It therefore refers to the Act as proposed legislation.

### 4.1 Second reading

The Bill passed Commons Second reading without a division on Monday 6 December.

Twelve Members spoke in the debate: Economic Secretary John Glen and Digital, Culture, Media and Sport Under-Secretary Nigel Huddleston (for the Government), Shadow Minister Rachael Maskell (for the Opposition), Julian Knight, Kevin Hollinrake, Danny Kruger, Gareth Davies, Kieran Mullan and Paul Howell (Conservatives), Rushanara Ali (Labour), John Nicolson (SNP) and Jim Shannon (DUP).

In introducing the Bill, Mr Glen confirmed that the Government intends to launch a public consultation, to last for at least 12 weeks after the Bill is passed, before it makes decisions on how dormant asset funds would be used in England.<sup>55</sup> In closing, Mr Huddleston stated that the “summer of 2020” [likely intended as summer of 2022] is the earliest this consultation could take place.<sup>56</sup>

Shadow Minister Ms Maskell confirmed Labour's support for the Bill, but expressed regret that it had not been passed years earlier.<sup>57</sup> She asked for further information on (i) the reluctance to expand the scheme to include pension assets, and when this might happen; (ii) what other assets could be included in future; and (iii) whether the Reclaim Fund had the appropriate balance between releasing money to beneficiaries, and holding money to meet potential future claims. Ms Maskell also called on the Government to keep an [amendment to clause 29](#) made at Lords Report stage on the explicit inclusion of community wealth funds as potential beneficiaries of the scheme.<sup>58</sup>

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<sup>55</sup> [HC Deb 6 December 2021, vol 705 col 122](#)

<sup>56</sup> *Ibid*, col 135

<sup>57</sup> *Ibid*, col 123 and 124

<sup>58</sup> *Ibid*, col 124 to 126

Mr Nicolson said the SNP “welcome the Bill” but reiterated calls made in the House of Lords for more detail on the costs and potential impact of the scheme, to avoid it being used to make up other financial shortfalls in future. He also emphasised the need for “adequate consultation and scrutiny” of secondary legislation to be made under the Bill.<sup>59</sup>

Mr Hollinrake said he was “supportive” of the Bill but said he would table an amendment at a later stage to explicitly allow regional mutual banks to receive funding from the scheme, saying that they provide “opportunity for some of our less well-off communities to thrive in the future.” He raised concerns that relying solely on a future consultation process to determine how scheme assets should be used could take “months or years to implement”.<sup>60</sup>

A number of MPs raised other specific suggestions for how scheme funding could be used in future, including social impact businesses and social bond funds (by Mr Davies), community wealth funds (by Mr Kruger and Mr Howell) and personal debt projects (by Mr Kruger). However Mr Huddleston said it was “too early to speculate on the causes that may be included” in the forthcoming consultation on the scheme’s expansion in England.<sup>61</sup>

## 4.2

## Committee stage

The Bill completed Committee stage in one sitting on 11 January 2022. No oral evidence was taken but 11 pieces of written evidence were received.<sup>62</sup>

The Committee comprised 17 MPs: 10 Conservatives (Bim Afolami, Caroline Ansell, Shaun Bailey, Damian Collins, James Grundy, Nigel Huddleston, Mary Robinson, Kelly Tolhurst, Heather Wheeler and Jacob Young), 6 Labour (Alex Davies-Jones, Jeff Smith, Dame Diana Johnson, Clive Lewis, Jessica Morden, and Beth Winter) and Peter Grant (SNP).<sup>63</sup>

Five amendments and two New Clauses were tabled. Of these:

- Four were tabled by the Labour frontbench. These were:
  - Amendment 5, which would require the Government to publish criteria to be used when determining the purposes for which dormant assets money can be distributed in England;
  - Amendment 4, which would require Government to report annually on how scheme monies have been spent in England;

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<sup>59</sup> Ibid, col 128 and 129

<sup>60</sup> Ibid, col 129 and 130

<sup>61</sup> Ibid, col 132 to 135

<sup>62</sup> See Public Bill Committee, Dormant Assets Bill [Lords], [First Sitting](#), 11 January 2022, from which all quotes in this section are sourced

<sup>63</sup> Ibid, col 1



- New Clause 1, which would require the Government to assess the health and governance of reclaim funds and report annually to Parliament; and
- New Clause 2, which would allow reclaim funds to review the proportion of funds they are able to give towards good causes, and make an assessment and recommendation as to whether this proportion should be increased.<sup>64</sup>

None were put to a vote.

- Two by the Government, in the name of Nigel Huddleston. These were:
  - Amendment 1, which removed provisions added during Lords Report Stage explicitly contemplating the distribution of dormant assets to community wealth funds. Minister Huddleston said the amendment was necessary to “protect the integrity of the consultation process”<sup>65</sup> since it would be unbalanced to have one option for the consultation set out in primary legislation. He did however commit to explicitly include community wealth funds in the Government’s forthcoming consultation on distributing dormant assets in England.

For the Opposition, Jeff Smith expressed disappointment at the amendment and said it was important to “see the principle” of community wealth funds “written into primary legislation”. Dame Diana Johnson also spoke in opposition to Amendment 1, saying keeping the amendment would “set out the current thinking of this Parliament” and that relying solely on the Government consultation could take too long.<sup>66</sup>

The Amendment was put to a division and carried by 10 votes to 6 (with Peter Grant abstaining).<sup>67</sup>

- Amendment 2, which removed the Lords [privilege amendment](#) in accordance with convention, and passed without a division.
- One (Amendment 3) in the names of 8 cross-party MPs, spoken to by Dame Diana Johnson, a co-chair of the APPG for “Left Behind” Neighbourhoods. The amendment would require the forthcoming Government consultation on distributing dormant assets to “specifically consult on the merits of establishing a community wealth fund”. Mr Huddleston opposed the amendment, saying it would “not be right to name any new cause in legislation before we consult”. The amendment was subsequently withdrawn.<sup>68</sup>

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<sup>64</sup> See the [amendment paper](#) as at 11 January 2022

<sup>65</sup> Public Bill Committee, Dormant Assets Bill [Lords], [First Sitting](#), 11 January 2022, col 23

<sup>66</sup> *Ibid*, cols 24 to 26

<sup>67</sup> *Ibid*, col 29

<sup>68</sup> *Ibid*, col 29

Mr Huddleston then expressed his hope that “we can continue to work productively and co-operatively on this really important Bill”, and the Bill (as amended by amendments 1 and 2) was reported back to the House in anticipation of remaining stages.<sup>69</sup>

## 4.3 Report stage and third reading

The Bill passed its remaining Commons stages on 31 January 2022 without a division, with third reading taken immediately after Report stage. Nine MPs spoke in the debate: four Conservatives (Minister Nigel Huddleston, Danny Kruger, Claire Coutinho and Paul Howell), three Labour (Shadow Minister Alex Davies-Jones, Toby Perkins and Dame Diana Johnson), John Nicolson (SNP) and Jim Shannon (DUP).

Ms Davies-Jones reiterated Labour’s support for the Bill, but urged that the scheme go even further in future to cover unclaimed winnings from gambling, pension assets and physical assets. Mr Nicolson also noted the SNP’s continued support. For the Government, Mr Huddleston said it was “nice and good to see a Bill through its various stages with such a degree of consensus”.<sup>70</sup>

Three amendments were tabled for Report stage; New Clause 1 in the name of the Labour opposition, and Government amendments 1 and 2.

### Unsuccessful amendment

New Clause 1 would have required the Government to assess and report annually to Parliament on the health and governance (including the solvency) of [reclaim funds](#) used by the scheme. Shadow Minister Alex Davies-Jones argued that scrutiny of the scheme’s reclaim fund “is vital”, and the amendment would help ensure “openness and transparency” on how scheme funding is used.<sup>71</sup>

Minister Nigel Huddleston opposed the amendment “largely on the basis that there is considerable oversight already”. He noted that there was currently only one reclaim fund used by the scheme, whose annual report and accounts will be laid before Parliament by the Treasury.<sup>72</sup> The amendment was subsequently withdrawn.

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<sup>69</sup> Ibid, col 36

<sup>70</sup> [HC Deb 31 January 2022, vol 708 cols 98, 106 and 107](#)

<sup>71</sup> Ibid, col 100

<sup>72</sup> Ibid, col 107

## Successful amendments

### Amendment 1

Government amendment 1 was a “minor and technical” amendment to Clause 12 (on [client money assets](#)). It “clarifies that money derived from collective scheme investments cannot be transferred into the scheme as client money”, thereby “ensuring that people can reclaim the amount they would have been owed had the transfer to the scheme not happened”.

Mr Huddleston said amendment excludes “collective scheme investments held by investment platforms and ISA fund managers” from the dormant assets scheme. Including them “would require complex technical work”, which the Government plans to explore in future under powers in the Bill to extend the scheme using secondary legislation. The amendment was agreed without a division.<sup>73</sup>

### Amendment 2

#### Background

This amendment related to the public consultation that Clause 29 would require the Government to undertake on the use of dormant asset monies in England.

An amendment was [inserted at Lords Report stage](#) that required the Government to set up a pilot to explore using scheme assets to fund community wealth funds. That amendment was removed by the Government [during Commons Committee stage](#) on the basis that it would not be fair to have one of the options for use of scheme funds set out in primary legislation.

#### The amendment

[Amendment 2](#) amends Clause 29 to list causes that must be included in the Government’s consultation on the use of scheme money in England. The consultation must include community wealth funds, as well as the three existing purposes set out in the 2008 Act (youth, financial inclusion and social investment).

When introducing the amendment, Mr Huddleston noted that community wealth funds had been mentioned several times during the Bill’s passage in both the Commons and Lords. The amendment, developed with the help of Dame Diana Johnson and Paul Howell (co-chairs of the APPG for “left behind” neighbourhoods) is intended to ensure that “this important cause” gets “due consideration”. Amendment 2 was supported by all those who mentioned it in the debate and it passed without a division.<sup>74</sup>

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<sup>73</sup> Ibid, col 106

<sup>74</sup> Ibid, col 108

Mr Huddleston also confirmed that the public consultation on use of English scheme assets “will launch as soon as possible following Royal Assent” and “will not delay the release of funds; rather, it will run in parallel with other necessary preparations”.<sup>75</sup>

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<sup>75</sup> As above

## 5

## Lords consideration of Commons amendments

This section explains the House of Lords' consideration of amendments made by the House of Commons. It therefore refers to the Act as proposed legislation.

In total, the Commons made four amendments to the Bill; two during Committee stage and two at Report stage. On 9 February 2022, the Lords considered these amendments.

Baroness Barker and Lord Bassam expressed disappointment that the [amendment inserted](#) on community wealth funds at Lords Report stage had been removed and replaced (in their view) with a [diluted version](#). Parliamentary Under-Secretary Lord Parkinson gave three reasons why he thought the amendment inserted by the Government in the Commons was preferable: being (1) that it avoids prejudicing the consultation process by having one of its options explicitly set out in legislation; (2) that it recognises the positive impact that the causes under the existing scheme (youth, financial inclusion and social investment) have had; and (3) that the Lords amendment would not have achieved its “objective of speeding up the pace of delivery” of the scheme by “Undercutting the consultation process”, because the Government does not expect any additional funds to be available for “some time”.<sup>76</sup>

Lord Parkinson confirmed that the Government is “keen to get a wide range of views” on how the scheme could be expanded to other assets in future.<sup>77</sup>

The Lords then approved all Commons amendments without a division, completing its passage through both Houses.

Royal Assent was obtained on 24 February 2022.

<sup>76</sup> [HL Deb 9 February 2022, vol 818](#)

<sup>77</sup> As above

## 6 Reaction

The reaction from both politicians and industry was broadly supportive of the Bill throughout its passage.

Then-Shadow Minister for the Voluntary Sector Rachael Maskell initially described the Bill's expansion of the scheme as "welcome".<sup>78</sup>

In response to the Government's February 2020 consultation, trade body UK Finance said that it "recognises the laudable policy drivers underpinning the proposals". The National Council of Voluntary Organisations' director of membership and engagement Sarah Vibert described the expansion of the scheme as "very welcome".<sup>79</sup>

The Association of British Insurers said they "welcome the Government expanding the Dormant Asset Scheme to insurance and pensions"<sup>80</sup> and membership body Social Enterprise UK described the scheme expansion as "good news" but called for "changes in policy to address the causes of" many of the problems the dormant assets will be used to help.<sup>81</sup>

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<sup>78</sup> Kirsty Weakley, [Government commits to release of £800 million of dormant assets to help charities](#), Civil Society, 9 January 2021.

<sup>79</sup> UK Finance, [UK Finance responds to the dormant assets expansion consultation](#), 21 July 2020

<sup>80</sup> ABI, [Dormant Asset Scheme to include insurance and pensions](#), 9 January 2021

<sup>81</sup> Social Enterprise UK, [Social Enterprise UK response to the Government's dormant asset distribution](#), undated (accessed 2 December 2021)

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