EXPLANATORY MEMORANDUM TO

THE DORMANT ASSETS (DISTRIBUTION OF MONEY) (ENGLAND) ORDER 2023

2023 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument names youth, financial inclusion and education, social investment wholesalers, and community wealth funds as the purposes for which, or the persons to which, a distribution of dormant assets money for meeting English expenditure may be made.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Article 1(2) of the instrument provides for the instrument to come into force on the day after the day on which it is made. This instrument does not impose duties on people that are significantly more onerous than before, or require them to adopt different patterns of behaviour.

3.2 The early commencement of the instrument is to enable distributions of money for the purposes or to the persons listed in article 2 of the instrument to be initiated at the earliest opportunity.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the whole of the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. European Convention on Human Rights

5.1 Stuart Andrew MP has made the following statement regarding Human Rights:

"In my view the provisions of The Dormant Assets (Distribution of Money) (England) Order 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 Section 29 of the Dormant Assets Act 2022 (c. 5) (hereafter referred to as the 2022 Act) inserts a new section 18A into the Dormant Bank and Building Society Accounts Act 2008 (c. 31) (hereafter referred to as the 2008 Act). Section 29(2) and (3) of the 2022 Act provides that the existing section 18 of the 2008 Act will be repealed when

this instrument comes into force. Currently, dormant assets money for meeting English expenditure can only be directed to youth, financial inclusion and education, and social investment wholesalers.

6.2 The Government ran a public consultation from July to October 2022 on the purposes of the English portion, in accordance with section 18A(3)(a) of the 2008 Act. This included the current three causes – youth, financial inclusion and education, and social investment wholesalers – as options, as well as a proposal to include community wealth funds.

6.3 In response to this consultation, where widespread support was shown, the Government announced in March 2023 that it would name these four purposes for which, or the persons to which, a distribution of dormant assets money for meeting English expenditure can be made in a statutory instrument. The Government has consulted with the Big Lottery Fund (operating under the name 'The National Lottery Community Fund') on a draft of this Order.

6.4 This instrument only relates to the broad purposes of the Dormant Assets Scheme ("the Scheme") in England. The 2008 Act and 2022 Act describe the Scheme as one in which "an institution transfers to an authorised reclaim fund, with its consent, an amount owing to a person which is dormant" to enable the "distribution of dormant assets money for meeting expenditure with a social or environmental purpose".

7. Policy background

What is being done and why?

7.1 The instrument is being laid following the outcome of the public consultation on the English portion of dormant assets money. Responses to the consultation were overwhelmingly in favour of continued support for the current three purposes and the addition of community wealth funds to the Scheme.

7.2 A community wealth fund is defined in section 18A of the 2008 Act as "a fund which gives long term financial support (whether directly or indirectly) for the provision of local amenities or other social infrastructure". The Government has committed to including a community wealth fund as one of the purposes for which, or persons to which, a distribution of dormant assets money for meeting English expenditure can be made. This instrument is necessary to fulfil that commitment.

7.3 The coming into force of this instrument will also have the effect of repealing the current section 18 of the 2008 Act by virtue of section 29(2)(a) of the 2022 Act.

Explanations

What did any law do before the changes to be made by this instrument?

7.4 Before the changes made by this instrument, the English portion of dormant assets funding was restricted to youth, financial inclusion and education, and social investment wholesalers.

Why is it being changed?

7.5 Responses to the public consultation made clear that there is widespread support for dormant assets funding to be used to support a community wealth fund in England. As community wealth funds are not in scope of the current section 18 of the 2008 Act, no funding can flow to this new purpose until the instrument is made.

What will it now do?

7.6 The instrument will enable funding from the English portion of dormant assets to flow to community wealth funds, as well as youth, financial inclusion and education, and social investment wholesalers. A community wealth fund will give local people the power to make decisions about how to improve their neighbourhood and community.

7.7 The Dormant Assets Scheme is uniquely placed to be able to deliver long-term, patient investment to help drive beneficial and lasting change in those communities and neighbourhoods that are experiencing high levels of deprivation and/or low social capital.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 No consolidation is required.

10. Consultation outcome

10.1 The Government ran a public consultation from July to October 2022 on the purposes of the English portion, in accordance with section 18A(3)(a) of the 2008 Act. In line with section 18A(4), the consultation included the current three causes – youth, financial inclusion and education, and social investment wholesalers – as options, as well as a proposal to include community wealth funds. It also provided the opportunity for respondents to suggest any other cause.

10.2 The consultation received over 3,300 responses from industry participants, civil society organisations, and the general public.

10.3 The Government response to the consultation was published in March and can be found here.

10.4 In accordance with section 18A(3)(b), the Government has also consulted with the Big Lottery Fund (operating under the name 'The National Lottery Community Fund') on a draft of this instrument, and they registered no comments or concerns.

11. Guidance

11.1 Policy officials will engage with the relevant stakeholders to discuss the significance of the Order, as appropriate.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because the policy does not meet the definition of a regulatory provision section 22(4)(c) of the Small Business, Enterprise and Employment Act 2015 (c. 26) ("the SBEE Act") and is therefore exempt. The Big Lottery Fund (operating under the name 'The National Lottery Community Fund') is considered a public authority for the purposes of section 22 of the SBEE Act and therefore the SBEE Act exemption applies.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses, charities and social enterprises.

14. Monitoring & review

14.1 The approach to monitoring this legislation is set out in section 30 of the Dormant Assets Act 2022, which requires the Secretary of State to carry out periodic reviews of the Scheme and report to Parliament. This report must also set out information relating to the uses made of dormant assets money in England, including any policy directions given and practices related to the additionality principle. The 'additionality principle' is the principle that dormant assets money should be used to fund projects, or aspects of projects, for which funds would be unlikely to be made available by central or devolved governments. The first report will be laid before Parliament in 2025 and every five years thereafter.

14.2 The instrument does not include a statutory review clause. Any changes made to the instrument in future, however, would be subject to a statutory duty to carry out another public consultation on the purposes.

15. Contact

15.1 Florence Eastoe at the Department for Culture, Media and Sport florence.eastoe@dcms.gov.uk can be contacted with any queries regarding the instrument.

15.2 Geoff Hope, Deputy Director for Civil Society Impact Funding at the Department for Culture, Media and Sport, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Stuart Andrew MP, Minister for Sport, Culture and Civil Society at the Department for Culture, Media and Sport, can confirm that this Explanatory Memorandum meets the required standard.