EXPLANATORY MEMORANDUM TO

THE TRANSFER OF FUNCTIONS (DORMANT ACCOUNTS) ORDER 2010

2010 No. 2967

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by the Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order amends the Dormant Bank and Building Societies Act 2008 (the "2008 Act") to transfer functions of the Secretary of State to the Minister for the Cabinet Office. Under the 2008 Act, the functions to be transferred will give the Minister for the Cabinet Office responsibility for:

- Issuing spending directions to the Big Lottery Fund for how dormant accounts money is to be spent in England
- Determining how the money will be distributed between England and the Devolved Administrations
- Adding or removing distributors, or prohibiting distribution in certain cases

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The 2008 Act stipulates that certain functions are vested in the "Secretary of State". For the reasons given below, it has been agreed that those functions ought to vest in the Minister for the Cabinet Office. As the Minister for the Cabinet Office is not a Secretary of State it is necessary to transfer the functions and amend the 2008 Act to as to confer the functions on the Minister for the Cabinet Office.

4.2 That transfer is being effected through a Transfer of Functions Order made under section 1 of the Ministers of the Crown Act 1975.

4.3 The Order is subject to the negative procedure in accordance with s.5(2) of the Ministers of the Crown Act 1975.

5. Territorial Extent and Application

5.1 This instrument applies to all of the UK.

6. European Convention on Human Rights

6.1 No statements have been made in this respect, as the Order has no impact.

7. Policy Background

7.1 The 2008 Act provides a scheme by which funds in "dormant accounts" (as defined in the Act) may be transferred to a Reclaim Fund (as identified under the Act). The Reclaim Fund manages the funds and identifies funds that may, within the constraints the 2008 Act, be made available for public use. HMT has functions in relation to this process. The 2008 Act then confers functions on the Secretary of State for the following stages. Any funds that are released by the Reclaim Fund will pass to a distributor, identified in the 2008 Act as the BIG Lottery Fund. The funds held by the BIG Lottery Fund are apportioned between England, Scotland, Northern Ireland and Wales for use in those administrations. The "English" portion of funds may only be used for the purposes identified in section 18(1) of the 2008 Act, including payments to a social investment wholesaler (as defined in the Act).

7.2 Under the previous government, it was expected, though never formalised, that the majority of money available to England would be spent to help support youth services and, therefore, the Secretary of State for Education would take the lead responsibility.

7.3 On 19 July 2010, the Prime Minister announced that all dormant accounts money available for spending in England would go to a Big Society Bank. This will fit the description of a social investment wholesaler. The Cabinet Office structural reform plan states that the Cabinet Office will aim to establish the Big Society Bank by April 2011.

7.4 Given that the Cabinet Office has policy responsibility for the Big Society Bank, it is more appropriate that the Minister for the Cabinet Office takes on the functions related to the funds that are made available by the Reclaim Fund.

8. Consultation outcome

8.1 No public consultations were carried out in relation to this Order.

9. Guidance

9.1 The Department does not intend to issue any guidance alongside this instrument, as it is not considered necessary.

10. Impact

10.1 A Regulatory Impact Assessment has not been prepared for this Order as it has no impact on business, charities or voluntary bodies.

10.2 There is no financial impact on the public sector.

11. Regulating small business

11.1 This Order does not apply to small businesses.

12. Monitoring and review

12.1 There are no plans to perform monitoring or review.

13. Contact

Andy Scott at the Cabinet Office (Tel: 020 7276 0878 or email: andy.scott@cabinet-office.x.gsi.gov.uk) can answer any queries regarding the instrument.