

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE PREFERRED DEBTS (GUERNSEY) (AMENDMENT) ORDINANCE, 2020

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Preferred Debts (Guernsey) (Amendment) Ordinance, 2020", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

This Ordinance amends the Preferred Debts (Guernsey) Law, 1983 ("the 1983 Law"). The 1983 Law sets out the order of priority in which debts should be paid in the distribution of property of a person whose affairs have been declared to be in a state of désastre or on the winding up of an insolvent company. The amendments place (a) the total capped amount paid by the Guernsey Banking Deposit Compensation Board ("the Board") in respect of a qualifying deposit (within the meaning of the Banking Deposit Compensation Scheme (Bailiwick of Guernsey) Ordinance, 2008) subrogated to the Board as a preferred debt ahead of existing preferred debts in the 1983 Law, and (b) any other amount in respect of a qualifying deposit in excess of that capped amount as a preferred debt behind other existing preferred debts.

The Preferred Debts (Guernsey) (Amendment) Ordinance, 2020

THE STATES, in pursuance of their Resolution of the 4th June, 2020^a, and in exercise of the powers conferred on them by section 9A of the Preferred Debts (Guernsey) Law, 1983, as amended^b, and all other powers enabling them in that behalf, hereby order :-

Amendment of the Preferred Debts Law.

1. (1) The Preferred Debts (Guernsey) Law, 1983 is amended as follows.

(2) In section 1(1) -

(a) before paragraph (a), insert -

"(za) in the case of a bank, in priority to all other debts, all amounts paid up to the total amount of compensation payable in respect of qualifying deposits with that bank in accordance with section 12(2) of the Banking Deposit Compensation Scheme (Bailiwick of Guernsey)

^a Article XIV of Billet d'État No. XI of 2020.

^b Ordres en Conseil Vol. XXVIII, p. 184; as amended by No. VII of 1992; No. III of 1993, Ordres en Conseil Vol. XXXIV, p. 299; No. IX of 1998; No. XIV of 2008; and by Ordinance No. XXXI of 2005; and No. XXIII of 2006.

Ordinance, 2008^c ("**the DCS Ordinance**"), when read with section 14 of that Ordinance, by the Guernsey Banking Deposit Compensation Board ("**the Board**") as compensation for qualifying deposits in accordance with the DCS Ordinance,".

- (b) in paragraph (a), after "in priority to all other debts" insert "other than debts to which paragraph (za) relates",
- (c) in paragraph (b), for "paragraph (a) relates" substitute "paragraph (za) or (a) relates",
- (d) at the end of paragraph (b), for "." substitute ", and", and
- (e) after paragraph (b), insert -

"(c) in the case of a bank, in priority to all other debts other than debts to which paragraph (za), (a) or (b) relates, any amount representing a qualifying deposit with that bank to which paragraph (za) does not relate."

(3) In section 9(1), at the appropriate places insert the following definitions –

^c No. XLVIII of 2008 (Recueil d'Ordonnances Tome XXXIII, p. 238); as amended by Ordinance No. XXX of 2014; and No. IX of 2016.

""**bank**" has the meaning given by the Banking Supervision (Bailiwick of Guernsey) Law, 1994,"

""**the Board**" has the meaning given in section 1(1)(za),"

""**the DCS Ordinance**" has the meaning given in section 1(1)(za)," and

""**qualifying deposit**" has the meaning given by the DCS Ordinance, 2008".

Citation.

2. This Law may be cited as the Preferred Debts (Guernsey) (Amendment) Ordinance, 2020.

Commencement.

3. This Ordinance shall come into force on the 27th November, 2020.