

PREFERENTIAL PAYMENTS (AMENDMENT) BILL 2016

Explanatory Memorandum

1. This Bill is promoted by the Treasury.
2. *Clause 1* deals with the short title of the resulting Act.
3. *Clause 2* amends the Preferential Payments Act 1908 by inserting a new paragraph (aa) at the beginning of section 3 to add “eligible protected deposits” as defined in regulation 3(2) of the Depositors’ Compensation Scheme Regulations 2010 or in regulations made under section 25 of the *Financial Services Act 2008* which amend or replace those Regulations to the categories of preferential payments to be paid in priority to other debts. A new section 3A is inserted so as to enable the Treasury to amend paragraph 3(aa) by order subject to Tynwald approval.
4. *Clause 3* provides for the expiry of the resulting Act once all of its provisions are in operation. This will not affect the amendments to the Preferential Payments Act 1908.
5. This Bill is not expected to have any human resource implications. With regard to financial resource implications, if the Treasury were to advance funding to the Depositors’ Compensation Scheme then the Treasury will rank first in the order of payments made to creditors, therefore taxpayers money should be reimbursed in a more timely manner and the risk of financial loss is lessened. However, in a liquidation situation, other debts to Treasury will have a lower ranking.
6. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



Ellan Vannin

PREFERENTIAL PAYMENTS (AMENDMENT) BILL 2016

- 1 **A BILL** to amend the Preferential Payments Act 1908 so as to provide that
 2 amounts owing by debtors in respect of certain deposits are preferential debts
 3 for the purposes of that Act; and for connected purposes.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

4 **PART 1 – INTRODUCTORY**

5 **1 Short title**

6 The short title of this Act is the Preferential Payments (Amendment) Act 2016.

7 **2 Amendment of the Preferential Payments Act 1908**

- 8 (1) The *Preferential Payments Act 1908* is amended as follows.
- 9 (2) In section 3 (order of payment when priorities to be ascertained), before
 10 paragraph (a) of subsection (1) insert —
- 11 “(aa) so much of any amount owed at the relevant date by the
 12 debtor in respect of an “eligible protected deposit” within
 13 the meaning given by regulation 3(2) of the *Depositors’*
 14 *Compensation Scheme Regulations 2010*¹ or in regulations
 15 made under section 25 of the *Financial Services Act 2008*
 16 which amend or replace those Regulations (“the
 17 Depositors’ Compensation Scheme) as does not exceed the
 18 compensation that would be payable in respect of the
 19 deposit under the Depositors’ Compensation Scheme to
 20 the person or persons to whom the amount is owed;”.
- 21 (3) After section 3 insert —

¹ SD 683/10 (as amended)

“3A Power to amend

- (1) The Treasury may by order amend paragraph (aa) of section 3(1) so as to add to, vary or reduce the types of debts which are to be paid in priority to other debts.
- (2) Without limiting the scope of subsection (1), an order under subsection (1) may make provision in respect of amounts owing in circumstances where compensation has been paid (or is to be paid) under a foreign scheme which is equivalent, analogous or similar to the Depositors' Compensation Scheme mentioned in paragraph (aa) of section 3(1).
- (3) An order under subsection (1) may contain consequential, incidental, supplementary and transitional provisions which the Treasury considers to be necessary or expedient.
- (4) The power conferred by subsection (3) includes the power to modify, adapt or amend any provision of this Act or any other enactment.
- (5) An order under subsection (1) must not come into operation unless it is approved by Tynwald.”

3 Expiry

- (1) This Act expires
on the day following its promulgation.
- (2) The expiry does not —
 - (a) affect the continuing operation of the amendments made by this Act; or
 - (b) revive any provision not in operation when the amendments took effect.

IN THE KEYS

PREFERENTIAL PAYMENTS (AMENDMENT) BILL 2016

A **BILL** to amend the Preferential Payments Act 1908 so as to provide that amounts owing by debtors in respect of certain deposits are preferential debts for the purposes of that Act; and for connected purposes.

Approved by the Council of Ministers
for introduction in the House of Keys.

MR TEARE MHK

JANUARY 2016