

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**THE BANKING DEPOSIT COMPENSATION SCHEME (BAILIWICK OF GUERNSEY)  
(AMENDMENT) ORDINANCE, 2020**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Banking Deposit Compensation Scheme (Bailiwick of 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 Banking Deposit Compensation Scheme (Bailiwick of Guernsey) Ordinance, 2008. It confirms that members of the Guernsey Banking Deposit Compensation Board hold and vacate office in accordance with their terms and conditions of appointment, which may also stipulate a notice period. It also allows for negative interest rates; increases the existing aggregate payment cap from £1,000,000 to £2,000,000 in any calendar year and removes the 3 years profits cap; changes the payment timescales for compensation levies by participant banks; clarifies that each participant bank's duty to co-operate includes the provision of personal data; and explicitly requires participant banks to provide data promptly to the Board.



# **The Banking Deposit Compensation Scheme (Bailiwick of Guernsey) (Amendment) Ordinance, 2020**

**THE STATES**, in pursuance of their Resolutions of the 25<sup>th</sup> October, 2018<sup>a</sup> and of 28<sup>th</sup> November 2018<sup>b</sup>, and in exercise of the powers conferred on them by sections 46 and 60 of the Banking Supervision (Bailiwick of Guernsey) Law, 1994<sup>c</sup>, and all other powers enabling them in that behalf, hereby order:-

## **Amendment of the Ordinance.**

1. The Banking Deposit Compensation Scheme (Bailiwick of Guernsey) Ordinance, 2008<sup>d</sup> is amended as follows -

(a) immediately after section 3(3), insert the following subsection -

"(3A) For the avoidance of doubt, the appointment of a member of the Board under this section may be made on such terms as to remuneration, expenses, pensions, retirement and other conditions of service as the Board thinks fit.",

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<sup>a</sup> Article XIII of Billet d'État No. XXIII of 2018.

<sup>b</sup> Article XV of Billet d'Etat No. XXV of 2018.

<sup>c</sup> Ordres en Conseil Vol. XXXV, p. 271; amended by Ordres en Conseil Vol. XLIII(1) p. 462; Vol. XLII(2), pp. 644 and 766; Order in Council No. XVI of 2008; No. IV of 2009; No. XIII of 2010; No. XXI of 2010; Recueil d'Ordonnances Tome XXIX, p. 406; and G.S.I. No. 1 of 2008; No's. 35 and 83 of 2010.

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

- (b) in subsection 3(5)(a), immediately after the word "shall", insert ", subject to the provisions of this subsection and to the terms and conditions of that member's appointment,"
- (c) in section 3(5)(c), immediately after the word "may", insert ", subject to the provisions of this subsection and to the terms and conditions of that member's appointment as to resignation (and in particular any notice period),"
- (d) in section 7(2)(a), immediately after "members of the Board", insert "and any negative interest charge in respect of monies held in the administration fund",
- (e) in section 8(2)(f)(ii), immediately after "default in question", insert ", including "any negative interest charge in respect of monies held in the compensation fund",
- (f) immediately after section 12(7), insert the following subsection -

"(7ZA) Without prejudice to subsection (7), the compensation to which a qualifying claimant is entitled shall also be reduced by any amount as the Board may determine represents an appropriate deduction to reflect any negative interest rate which applied to a qualifying deposit before a declaration of default has been made in respect of the participant holding that deposit."

(g) for section 18(4), substitute the following subsection -

"(4) The Board may not require a participant to pay in any calendar year an aggregate amount by way of a contribution to a compensation levy which would exceed a total of £2,000,000, provided that the element of the compensation levy payable under paragraph (a) of Schedule 2 shall not be subject to such limitation and shall accordingly be disregarded in calculating the maximum aggregate amount payable by virtue of this subsection.",

(h) in section 18(7)(c)(i), for "14", substitute "5 working",

(i) in section 18(7)(c)(ii), for "not be earlier than 14" substitute "not be later than 5 working", and

(j) in section 20, after subsection (2) insert the following subsection –

"(3) For the avoidance of doubt, a participant shall -

(a) promptly provide any documents or information which are required by the Board, and

(b) subject to the provisions of the Data Protection (Bailiwick of Guernsey) Law, 2017, provide personal data (including special category data) of claimants to the Board when requested to

do so where it is necessary for the carrying out of the Board's functions under this Ordinance."

**Extent.**

2. This Ordinance has effect throughout the Bailiwick of Guernsey.

**Citation.**

3. This Ordinance may be cited as the Banking Deposit Compensation Scheme (Bailiwick of Guernsey) (Amendment) Ordinance, 2020.

**Commencement.**

4. This Ordinance shall come into force on the 21<sup>st</sup> May, 2020.