



Isle of Man

Ellan Vannin

AT 4 of 1908

PREFERENTIAL PAYMENTS ACT 1908



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**Isle of Man***Ellan Vannin*

PREFERENTIAL PAYMENTS ACT 1908

<i>Received Royal Assent:</i>	<i>4 June 1908</i>
<i>Promulgated:</i>	<i>6 July 1908</i>
<i>Commenced:</i>	<i>6 July 1908</i>

AN ACT to provide for the preferential payment of certain debts.

1 Short title

This Act may be cited as the Preferential Payments Act 1908.

2 [Repealed]¹

3 Order of payment when priorities to be ascertained

- (1) Where debts are payable in accordance with the priority of creditors, the following debts shall be paid in priority to all other debts, and according to the following order —
- (aa) so much of any amount owed at the relevant date by the debtor in respect of an “eligible protected deposit” within the meaning given by regulation 3(2) of the Depositors’ Compensation Scheme Regulations 2010ⁱ or in regulations made under section 25 of the *Financial Services Act 2008* which amend or replace those Regulations (“the Depositors’ Compensation Scheme) as does not exceed the compensation that would be payable in respect of the deposit under the Depositors’ Compensation Scheme to the person or persons to whom the amount is owed;²
 - (a) all debts due to the Crown or to any person on behalf of the Crown;
 - (b) all rates due at the relevant date and having become due and payable within the previous 12 months;
 - (c) so much of any amount which is owed by the debtor to a person who is or has been an employee of the debtor and is payable by way of remuneration in respect of the whole or any part of the 8

ⁱ SD 683/10 (as amended)

- weeks ending on the relevant date as does not exceed £250 for every complete week making up the period in question;
- (d) any amount owed by way of accrued holiday remuneration, in respect of any period before the relevant date, to a person whose employment by the debtor has been terminated (whether before, on or after the relevant date);
 - (e) any sum ordered to be paid to an apprentice or articled clerk under section 24 of the Bankruptcy Code 1892;
 - (f) so much of any amount ordered under the Reserve Forces (Safeguard of Employment) Act 1985 (an Act of Parliament), as it has effect in the Isle of Man, to be paid by way of compensation, where the default by reason of which the order for compensation was made occurred before the relevant date, as does not exceed £800;
 - (g) all sums which on the relevant date are due from the debtor on account of Class 1 or Class 2 contributions under the Social Security Contributions and Benefits Act 1992 (an Act of Parliament) (“the 1992 Act”), as it has effect in the Isle of Man, and which became due from the debtor in the 12 months ending on the relevant date;³
 - (h) all sums which on the relevant date have been assessed on and are due from the debtor on account of Class 4 contributions under the 1992 Act, being sums which are due to the Treasury and are assessed on the debtor up to 5th April next before the relevant date, but not exceeding in the whole any one year’s assessment;⁴
 - (i) any sum which is owed by the debtor and is a sum to which Schedule 4 to the Pension Schemes Act 1993 (an Act of Parliament), as it has effect in the Isle of Man, applies (contributions to occupational pension schemes and contributions equivalent premium).⁵
- (2) In this section “the relevant date” means —
- (a) in relation to a bankrupt, the date of adjudication;
 - (b) in the case of a deed of arrangement, the date of the deed;
 - (c) in the case of a person dying insolvent, the date of death;
 - (d) in relation to the winding up of a company, the date of commencement of the winding up;
 - (e) in the case of the appointment of a receiver of debentures, or debenture stock of a company secured by a floating charge, or where possession of any property comprised in or subject to the charge is taken by or on behalf of the holders of such debentures or debenture stock, the date of the appointment of the receiver or of possession being taken, as the case may be.

- (3) In subsection (1)(b) “rates” means —
 - (a) rates levied by any local authority or joint board (within the meaning of the *Local Government Act 1985*);
 - (b) water rates and water charges payable under Part IV of the *Water Act 1991*;⁶
 - (c) the rates specified in section 49(1) of the *Rating and Valuation Act 1953*.
- (4) For the purposes of subsection (1)(c) a sum is payable by the debtor to a person by way of remuneration in respect of any period if —
 - (a) it is payable as wages or salary (whether payable for time or for piece work or earned wholly or partly by way of commission) in respect of services rendered to the debtor in that period; or
 - (b) it is payment for time off under section 35(3) (trade union duties), 41(3) (looking for work, etc.), 43(4) (ante-natal care) or 46 (pension scheme trustees) of the *Employment Act 2006* and is payable to the debtor in respect of that period.⁷
- (5) An amount owed in respect of money advanced for the purpose and applied for the payment of a debt which, if it had not been paid, would have been a debt falling within subsection (1)(c), shall have the like priority as the debt would have had.
- (6) The Treasury may by order vary the maximum amounts specified in subsection (1)(c) and (f) (or those amounts as varied by a previous order under this subsection), but no such order shall have effect unless it is approved by Tynwald.⁸

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.⁹

4 Debts to have priority over debentures

In the winding up of any company under Part V of the *Companies Act 1931* the debts mentioned in section 3(1)(a) to (d) and, unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, all the debts mentioned in section 3(1) (g), (h) and (i) shall, so far as the assets of the company available for the payment of general creditors may be insufficient to meet them, have priority over the claims of holders of debentures or debenture stock under any floating charge created by such company under the provisions of the said Act, and shall be paid accordingly out of any property comprised in or subject to such charge.¹⁰

5 Payment of debts out of assets in certain cases

In case a receiver is appointed on behalf of the holders of any debentures or debenture stock of any company secured by a floating charge, or in case possession is taken, by or on behalf of such debenture holders, of any property comprised in or subject to such charge, then and in either of such cases, if the company is not at the time in course of being wound up, the debts mentioned in section 3(1)(a) to (d) shall be paid forthwith out of any assets coming into the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of such debentures or debenture stock; but any payments made under this section shall be recouped, as far as may be, out of the assets of the company available for payment of general creditors.¹¹

6 Savings

This Act is without prejudice to —

- (a) section 4 of the *Recovery of Rent Act 1954* (preference for rent), or
- (b) section 39 of the *Administration of Estates Act 1990* (preference for funeral expenses etc.).¹²

Schedule¹³

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ S 2 repealed by Statute Law Revision Act 1983 Sch 2.

² Para (aa) inserted by Preferential Payments (Amendment) Act 2016 s 2.

³ Para (g) amended by SD2014/08.

⁴ Para (h) amended by SD155/10 Sch 6 and by SD2014/08.

⁵ Para (i) amended by SD531/95 and by Pensions Act 1995 (of Parliament) Sch 5 as applied by SD501/97.

⁶ Para (b) amended by Water Act 1991 Sch 8.

⁷ Para (b) substituted by Employment Act 2006 Sch 8.

⁸ S 3 substituted by Employment Act 1991 Sch 3.

⁹ S 3A inserted by Preferential Payments (Amendment) Act 2016 s 2.

¹⁰ S 4 amended by Employment Act 1991 Sch 3.

¹¹ S 5 amended by Employment Act 1991 Sch 3.

¹² S 6 substituted by Employment Act 1991 Sch 3.

¹³ Sch repealed by Statute Law Revision Act 1983 Sch 2.