



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2 [Repealed]¹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 must be paid in priority to all other debts and according to the following order —
- (aaaa) in respect of a person to which the *Bank (Recovery and Resolution) Act 2020* applies, all the costs, charges and expenses properly incurred or payable in a bank winding-up (including the remuneration of the liquidator);
 - (aaa) in respect of a person to which the *Bank (Recovery and Resolution) Act 2020* applies, all costs, charges and expenses properly incurred or payable by the Isle of Man Resolution Authority (as defined in that Act), the Isle of Man Financial Services Authority or the Treasury as a result of the taking of resolution action against a bank;
 - (aa) where a right of —
 - (i) a depositor in respect of an “eligible protected deposit” within the meaning given by 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 (“the Depositors’ Compensation Scheme”) held by a bank is

vested in the Scheme Manager of the Isle of Man Depositors' Compensation Scheme;

- (ii) a depositor in respect of a deposit that —
 - (A) is held in a branch outside the Island of a bank incorporated in the Island;
 - (B) would be an eligible protected deposit if it were held in the Island, and is vested in a bank depositors' compensation scheme outside the Island,so much of any amount owed at the relevant date by the debtor to the Scheme Manager of the Depositors' Compensation Scheme or bank depositors' compensation scheme, as the case may be, by virtue of the vested right, as does not exceed the compensation that would be payable under the Depositors' Compensation Scheme to the person or persons to whom the amount is owed;
- (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 who 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 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 (of Parliament), as it has effect in the Island, 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 (of Parliament) ("the 1992 Act"), as it has effect in the Island, and which became due from the debtor in the 12 months ending on the relevant date;
- (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 5 April next before the relevant date, but not exceeding in the whole any one year's assessment;

- (i) any sum which is owed by the debtor and is a sum to which Schedule 4 to the Pensions Schemes Act 1993 (of Parliament), as it has effect in the Island, applies (contributions to occupational pension scheme and contributions equivalent premium);
 - (j) that part of an eligible protected deposit that is not vested in the Manager of the Isle of Man Depositors' Compensation Scheme or is a deposit not vested in a depositors' compensation scheme outside the Island or is re-vested back to the depositor by the Manager of the Isle of Man Depositors' Compensation Scheme or by a depositors' compensation scheme outside the Island, that does not exceed the relevant maximum compensation level laid down in the Depositors' Compensation Scheme;
 - (k) that part of —
 - (i) an eligible protected deposit that exceeds the total amount given priority under paragraphs (aa) and (j); or
 - (ii) a deposit —
 - (A) that is held in a bank account in a branch outside the Island of a bank incorporated in the Island that would otherwise be an eligible protected deposit were it held in a bank account in the Island; and
 - (B) that exceeds the total amount given priority under paragraphs (aa) and (j);
 - (l) in respect of a person to which the *Bank (Recovery and Resolution) Act 2020* applies, any other debt which is excluded from being written-down or converted under section 103 or 104 of that Act.²
- (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*;³
 - (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.⁴
- (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.⁵

3A Power to amend

- (1) The Treasury may by order amend paragraphs (aa), (j) and (k) 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.⁶
- (2) [Repealed]⁷
- (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.⁸

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.⁹

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(l)(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.¹⁰

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.).¹¹

Schedule¹²

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 Subs (1) substituted by Bank (Recovery and Resolution) Act 2020 Sch.

³ Para (b) amended by Water Act 1991 Sch 8.

⁴ Para (b) substituted by Employment Act 2006 Sch 8.

⁵ S 3 substituted by Employment Act 1991 Sch 3.

⁶ Subs (1) amended by Bank (Recovery and Resolution) Act 2020 Sch.

⁷ Subs (2) repealed by Bank (Recovery and Resolution) Act 2020 Sch.

⁸ S 3A inserted by Preferential Payments (Amendment) Act 2016 s 2.

⁹ S 4 amended by Employment Act 1991 Sch 3.

¹⁰ S 5 amended by Employment Act 1991 Sch 3.

¹¹ S 6 substituted by Employment Act 1991 Sch 3.

¹² Sch repealed by Statute Law Revision Act 1983 Sch 2.