



Jersey

DRAFT BANK (RECOVERY AND RESOLUTION) (JERSEY) AMENDMENT LAW 202-

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Jersey

DRAFT BANK (RECOVERY AND RESOLUTION) (JERSEY) AMENDMENT LAW 202-

A **LAW** to amend the Bank (Recovery and Resolution) (Jersey) Law 2017, to provide for the continuation of the Bank Depositors Compensation Scheme and to provide for the transfer of functions to the Authority for the administration of that Scheme

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law –

PART 1

AMENDMENT OF THE [BANK \(RECOVERY AND RESOLUTION\) \(JERSEY\) LAW 2017](#)

1 **Amendment of the [Bank \(Recovery and Resolution\) \(Jersey\) Law 2017](#)**

This Part amends the [Bank \(Recovery and Resolution\) \(Jersey\) Law 2017](#).

2 **Article 1 (interpretation) amended**

In Article 1 –

- (a) the definition “2009 Regulations” is deleted;
- (b) for the definition “Authority”, there is substituted –
“ “Authority” means the Jersey Resolution and Depositors Compensation Authority mentioned in Article 4;”;
- (c) for the definition “bank” there is substituted –
“ “bank” means –
 - (a) for the purpose of the Bank Depositors Compensation Scheme, a Jersey bank;
 - (b) for any other purpose, a person to whom this Law applies under Article 3(1);”;

- (d) for the definition “bank depositors compensation scheme” there is substituted –
- “ “Bank Depositors Compensation Scheme” or “Scheme” means the scheme for payment of depositors’ compensation established by Part 3 of the [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#) and continued under Part 7A of this Law;
- “bank in default” has the meaning given in Article 142I;”;
- (e) for the definition “bank liquidator” there is substituted –
- “ “bank liquidator” means –
- (a) for a bank that is being wound up under Part 7, a person appointed under Article 98 as a bank liquidator;
- (b) for a foreign bank that is bankrupt within the meaning of Part 7A, the person for the time being charged with the administration of the property of the bank by virtue of it being bankrupt;”;
- (f) after the definition “bank winding up order” there is inserted –
- “ “bankrupt”, in respect of a bank, has the meaning given in Article 142C(2);”;
- (g) in paragraph (a) of the definition “covered deposit”, for “the 2009 Regulations” there is substituted “Article 142T”;
- (h) for the definition “deposit” there is substituted –
- “ “deposit” –
- (a) in Part 7A, has the meaning given in Article 142E; and
- (b) in the rest of this Law, has the meaning given in Article 2 of the 1991 Law;”;
- (i) after the definition “deposit” there is inserted –
- “ “depositor” means a person who makes a deposit;”;
- (j) after the definition “depositor” there is inserted –
- “ “depositors’ compensation” has the meaning given in Article 142C;”;
- (k) for the definition “Depositors Compensation Fund” there is substituted –
- “ “depositors’ compensation fund” means a compensation fund established under Article 142M for a bank in default;”;
- (l) for the definition “eligible deposit” there is substituted –
- “ “eligible deposit” has the meaning given in Article 142E(2);”;
- (m) for the definition “eligible depositor” there is substituted –
- “ “eligible depositor” has the meaning given in Article 142E(1);”;
- (n) after the definition “foreign resolution instrument” there is inserted –
- “ “function” includes a power and a duty;”;
- (o) the definition “Fund” is deleted;
- (p) the definition “Jersey Bank Depositors Compensation Board” is deleted;
- (q) after the definition “netting arrangement” there is inserted –
- “ “overseas depositors’ compensation scheme” means a scheme (irrespective of its name) that operates in a jurisdiction other than Jersey and is, in the opinion of the Authority, equivalent to the Bank Depositors Compensation Scheme;”;

- (r) after the definition “provisional valuation” there is inserted –
“ “published notice” means a notice published in a manner that, in the opinion of the person publishing the notice, is likely to bring the notice to the attention of those affected by it;”;
- (s) for paragraph (a) of the definition “relevant insolvency proceedings” there is substituted –
“(a) proceedings for a bank winding up order under Part 7 or, for a foreign bank, proceedings under the law of a jurisdiction outside Jersey that the Authority considers are equivalent or similar to proceedings to wind up a bank under Part 7;”;
- (t) after the definition “resolution conditions” there is inserted –
“ “Resolution Fund” means the Jersey Bank Resolution Fund established under Article 22;”;
- (u) after the definition “winding up” there is inserted –
“ “working day” means a day other than a Saturday, a Sunday, Christmas Day or Good Friday or a day that is a bank holiday or a public holiday under the [Public Holidays and Bank Holidays \(Jersey\) Law 1951](#);”.

3 Article 3 (application) amended

- (1) In Article 3(1), there is deleted “Subject to paragraph (2)”.
- (3) For Article 3(2) there is substituted –
“(2) However –
 - (a) Part 7A and other provisions of this Law relating to the Bank Depositors Compensation Scheme apply only to a person specified in paragraph (1)(a); and
 - (b) if a stabilisation power is exercised in respect of a bank, it does not cease to be a bank for the purposes of this Law if it is no longer registered to carry on the deposit-taking business as a result of a resolution action.”.

4 Heading to Part 2 (Jersey Resolution Authority) amended

In the heading to Part 2, after “Resolution” there is inserted “and Depositors Compensation”.

5 Article 4 (establishment of the Authority) substituted

For Article 4 there is substituted –

“4 Jersey Resolution and Depositors Compensation Authority

- (1) The Jersey Resolution and Depositors Compensation Authority is a body corporate with perpetual succession and a common seal that may –
 - (a) sue and be sued in its corporate name;
 - (b) enter into contracts and acquire, hold and dispose of any property; and

- (c) so far as possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.
- (2) The application of the common seal of the Authority must be authenticated by the signature of a person authorised by the Authority to sign on its behalf.
- (3) Every document bearing the imprint of the common seal of the Authority is taken to be properly sealed unless the contrary is proved.
- (4) The Authority is independent of the Minister and of the States and neither the Minister nor the States are liable for any act or omission, or debt or other obligation, of the Authority.”.

6 Article 7 (functions of the Authority) substituted

For Article 7 there is substituted –

“7 Functions of the Authority

- (1) The Authority has the following general functions in relation to bank resolution and recovery –
 - (a) to make preparations to facilitate the resolution of banks;
 - (b) to administer the resolution of banks;
 - (c) to carry out any other functions in relation to bank resolution or recovery or incidental or ancillary matters required or authorised by this Law or the Regulations.
- (2) The Authority has the following general functions in relation to the Bank Depositors Compensation Scheme –
 - (a) to administer the Scheme in a prudent and economical manner, including in particular –
 - (i) establishing and maintaining arrangements in readiness for the possibility of a bank being declared to be in default under Article 142I,
 - (ii) obtaining and sharing information in accordance with Part 7A (bank depositors compensation scheme) and Part 9 (restriction on disclosure of information),
 - (iii) paying depositors’ compensation under Part 7A in a timely manner, and
 - (iv) ensuring that banks comply with their obligations to the Authority under Part 7A and any other provisions of this Law relating to the Scheme, including by exercising the Authority’s enforcement powers under Part 7 and assisting other persons in their enforcement of Part 7;
 - (b) to carry out any other functions in relation to the Scheme or incidental or ancillary matters required or authorised by this Law or the Regulations.
- (3) The Authority has the general function to carry out any other functions conferred on it by this Law or another enactment.

- (4) The States may by Regulations amend this Law to make different provision as to the general functions of the Authority in relation to the Bank Depositors Compensation Scheme.”.

7 Article 8 (guiding principles) amended

- (1) The text of the existing Article 8 becomes paragraph (1).
- (3) After Article 8(1) there is inserted –
 - “(2) In the exercise of its functions relating to the Bank Depositors Compensation Scheme, the Authority must have regard to the objectives of –
 - (a) protecting the interests of eligible depositors; and
 - (b) contributing to financial stability in Jersey.
 - (3) In the exercise of its functions, the Authority must ensure that –
 - (a) the Authority is administered in a prudent and economical manner; and
 - (b) the resources of the Authority are used efficiently and effectively.”.

8 Article 9 (general powers of the Authority) amended

In Article 9(1), after sub-paragraph (c) there is inserted –

- “(d) the exercise of its powers relating to the Bank Depositors Compensation Scheme under Part 7A.”.

9 Article 14A inserted

After Article 14 (publication of information and advice) there is inserted –

“14A Publication of information and advice about the Scheme

- (1) The Authority must arrange for information on the operation of the Bank Depositors Compensation Scheme to be published.
- (2) The Authority must publish a list of Jersey banks for the purpose of the Bank Depositors Compensation Scheme.
- (3) The Authority may publish a standard for statements about the Bank Depositors Compensation Scheme to be followed by banks in advertisements, account statements or other documents or publicity produced for depositors or potential depositors.
- (4) The Authority may, in relation to a standard published under paragraph (3) –
 - (a) make different provision for different cases or purposes;
 - (b) provide for exceptions to the standard in specified circumstances, subject to specified conditions, or at the discretion of the Authority; and
 - (c) amend or revoke the standard.
- (5) Anything published by the Authority under this Article must be published in a manner that, in the opinion of the Authority, is likely to bring the publication to the attention of the persons affected by it.
- (6) The Authority must notify the Commission and the Minister of the publication of a standard under paragraph (3).

- (7) The States may by Regulations amend this Law to make other provision as to statements to be made in connection with the Bank Depositors Compensation Scheme.”.

10 Article 16 (annual administration levy) amended

- (1) For Article 16(2) there is substituted –
 - “(2) This Article applies to any year whether or not, in that year, the Authority –
 - (a) takes resolution action against a bank; or
 - (b) declares a bank to be in default under Article 142I.”.
- (2) After Article 16(13) there is inserted –
 - “(14) In this Article, “recurring administrative costs” does not include a payment out of a depositors’ compensation fund.”.

11 Articles 18 and 19 substituted

For Articles 18 and 19 there is substituted –

“18 Borrowing by the Authority

- (1) For the purpose of enabling the Authority to carry out its functions, the Authority may borrow money up to a prescribed maximum amount.
- (2) The Authority may –
 - (a) insure against its liabilities in connection with any of its functions;
 - (b) insure against liabilities of its members in connection with any of its functions, or indemnify its members in respect of those liabilities.
- (3) The Minister, on behalf of the States, may on terms determined by the Minister –
 - (a) guarantee the liabilities of the Authority up to the prescribed maximum amount; or
 - (b) lend money to the Authority up to the prescribed maximum amount.

19 Investment of money

- (1) The Authority may invest any of its funds that are not immediately required by the Authority.
- (2) The Authority may invest money standing to the credit of a depositors’ compensation fund.”.

12 Article 21 (accounts, audit and reports) amended

- (1) In Article 21(3), for “Fund” there is substituted “Resolution Fund”.
- (2) After Article 21(3) there is inserted –
 - “(3A) The Authority’s accounts must deal with each depositors’ compensation fund separately from –

- (a) any other depositors' compensation fund for another bank in default; and
- (b) any other money received, held or expended by the Authority.”.

13 Article 22 (establishment and management of Fund) amended

- (1) In the heading to Article 22, for “Fund” there is substituted “Resolution Fund”.
- (2) In Article 22(2), (3)(a) and (4), for “Fund” there is substituted “Resolution Fund”.
- (3) In Article 22(5), in both places it occurs, for “Fund” there is substituted “Resolution Fund”.
- (4) In Article 22(6), for “Fund” there is substituted “Resolution Fund”.
- (5) In Article 22(7), in both places it occurs, for “Fund” there is substituted “Resolution Fund”.
- (6) In Article 22(8) and (9), for “Fund” there is substituted “Resolution Fund”.

14 Article 26 (minimum requirement for own funds and eligible liabilities) amended

After Article 26(1) there is inserted –

- “(1A) The Minister may by Order prescribe criteria relating to eligible liabilities to be used by the Authority when setting the minimum requirement for own funds and eligible liabilities for each Jersey bank.”.

15 Article 28 (requirement for notice) amended

Article 28(4)(c) is deleted.

16 Article 29 (resolution powers) amended

In Article 29(4), after sub-paragraph (b) there is inserted –

- “(c) before the transfer of a deposit-taking business, the requirement to comply with the Schedule to the 1991 Law.”.

17 Article 30 (priority of claims) amended

In Article 30(5) –

- (a) in sub-paragraph (c) –
 - (i) in both places it occurs, for “Jersey Bank Depositors Compensation Board” there is substituted “Authority”,
 - (ii) for “bank depositors compensation scheme, as the case may be,” there is substituted “overseas depositors' compensation scheme”;
- (b) in sub-paragraph (c)(ii)(B), for “a bank depositors compensation scheme outside Jersey” there is substituted “an overseas depositors' compensation scheme”; and
- (c) for sub-paragraph (e), there is substituted –
 - “(e) that part of a covered deposit that –

- (i) is not vested in the Authority or in an overseas depositors' compensation scheme, or
- (ii) is re-vested back to the depositor by the Authority or by an overseas depositors' compensation scheme;”.

18 Article 37 (manner of recovery by the Authority of expenses) amended

In Article 37, for “Fund” there is substituted “Resolution Fund”.

19 Article 44 (pre-resolution valuation) amended

In Article 44 –

- (a) in paragraph (5)(c)(i), for “Fund” there is substituted “Resolution Fund”;
- (b) for paragraph (6)(g) there is substituted –
 - “(g) an estimate of the amount of depositors' compensation that would be payable under Part 7A if the bank were to be wound up or made insolvent under relevant insolvency proceedings.”.

20 Article 65 (application of bail-in tool) amended

In Article 65 –

- (a) for paragraph (7)(g)(iv), there is substituted –
 - “(iv) the Authority.”;
- (b) in paragraph (10), for “Fund” there is substituted “Resolution Fund”;
- (c) in paragraph (11), in both places it occurs, for “Fund” there is substituted “Resolution Fund”.

21 Article 66 (assessment of amount of bail-in) amended

In Article 66(2)(a), for “Fund” there is substituted “Resolution Fund”.

22 Article 72 (contractual recognition of bail-in) amended

- (1) For the heading to Article 72, there is substituted “Contractual recognition of bail-in for banks incorporated in Jersey”.
- (2) In Article 72(1), for “bank shall” there is substituted “bank incorporated in Jersey must”.
- (3) For Article 72(2) there is substituted –
 - “(2) The Authority may specify the contractual term for the recognition of bail-in that a bank is required, under paragraph (1), to include in its contractual documents.
 - (2A) The Minister may by Order prescribe the circumstances under which it would be legally or otherwise impracticable for a bank to include in its contractual documents the contractual term required by paragraph (1).
 - (2B) A bank is not required to include in its contractual documents the contractual term required by paragraph (1) if the prescribed circumstances apply.”.

- (4) In Article 72(3), for “Paragraph (1)(a) shall” there is substituted “Paragraph (1) does”.
- (5) For Article 72(6) there is substituted –
 - “(6) On the application of a bank setting out the circumstances that make it impracticable for the bank to comply with paragraph (1), the Authority may waive the requirements of that paragraph.”.

23 Article 77 (difference of treatment valuation) amended

In Article 77(3)(a) and (b), for “Jersey Bank Depositors Compensation Board” there is substituted “Authority, in relation to the administration of the Bank Depositors Compensation Scheme,”.

24 Article 78 (safeguard for shareholders and creditors) amended

In Article 78, for “Fund” there is substituted “Resolution Fund”.

25 Article 79 (procedural requirements after creation of a resolution instrument or share transfer order) amended

Article 79(1)(a)(iv) is deleted.

26 Article 92 (notice of application) amended

Article 92(e) is deleted.

27 Article 93 (right to be heard in proceedings for a bank winding up order) amended

Article 93(f) is deleted.

28 Article 99 (objectives of a bank liquidator in exercising his or her duties) amended

- (1) In Article 99(1), for “the objectives of a bank liquidator shall be” there is substituted “the objectives of a bank liquidator appointed under Article 98 are”.
- (2) In Article 99(1)(a), for “Jersey Bank Depositors Compensation Board” there is substituted “Authority”.

29 Article 101 (bank liquidation committee) amended

In Article 101 –

- (a) paragraph (2)(c) is deleted;
- (b) for paragraph (17) there is substituted –
 - “(17) If a bank liquidation committee passes a resolution under paragraph (15)(a) –
 - (a) the bank liquidator must summon a meeting of creditors; and

- (b) the meeting of creditors must elect an individual as a new member of the bank liquidation committee to represent the interests of creditors.”.

30 Article 104 (powers of bank liquidator) amended

In Article 104(h), in both places it occurs, for “Jersey Bank Depositors Compensation Board” there is substituted “Authority”.

31 Article 133 (disclosure of information by bank liquidator) amended

In Article 133(1), for “Jersey Bank Depositors Compensation Board” there is substituted “Authority”.

32 Article 141 (final dissolution) amended

Article 141(2)(f) is deleted.

33 Part 7A (Bank Depositors Compensation Scheme) inserted

After Article 142 (assistance for foreign authorities in insolvency matters) there is inserted –

“PART 7A

BANK DEPOSITORS COMPENSATION SCHEME

DIVISION 1 – CONTINUATION OF SCHEME

142A Continuation of Bank Depositors Compensation Scheme

- (1) This Part continues the scheme for payment of depositors’ compensation established by Part 3 of the [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#).
- (2) The Scheme as continued under this Part is administered by the Authority.

142B Transfer of assets from the Jersey Bank Depositors Compensation Board to the Authority

- (1) The assets, rights and liabilities of the Board are transferred to the Authority on the transfer date.
- (2) The Authority is not liable in damages for anything done, or omitted to be done, in bad faith by the Board or other person in the discharge or purported discharge of a function under the Banking Business (Depositors Compensation) (Jersey) Regulations 2009.
- (3) In this Article –

“Board” means the Jersey Bank Depositors Compensation Board established by the [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#);

“transfer date” means the date specified by Order of the Minister for External Relations under Article 51 of the Banking Business (Jersey) Law 1991 as the date on which Regulation 14 of those Regulations ceases to be in force.

DIVISION 2 – INTERPRETATION OF PART 7A

142C Interpretation of Part 7A

(1) In this Part –

“Community Savings Ltd” has the meaning given in Article 142D;

“completion of the depositors’ compensation exercise” means the completion declared under Article 142X(1);

“default-related administrative costs” has the meaning given in Article 142M(5);

“deposit” has the meaning given in Article 142E(1);

“depositors’ compensation” means depositors’ compensation payable under Article 142P(1), (4) or (6);

“depositors’ compensation levy” means –

- (a) a levy a bank is required to pay under Article 142Y(2); and
- (b) any additional levy the bank is required to pay under Article 142Z(3) or (5) in relation to that levy;

“foreign law” means the law of a jurisdiction other than Jersey;

“insolvent”, in respect of a bank, means unable, or likely to be unable, to pay its debts as they fall due;

“maximum amount of depositors’ compensation” has the meaning given in Article 142T;

“relevant date”, for a bank in default, means the date specified in a published notice under Article 142I as the date on which the bank became a bank in default;

“relevant holding”, in respect of a bank at a particular time, means the total amount held by the bank at that time by way of eligible deposits;

“responsible person”, for a bank in default, means –

- (a) for a bank that is bankrupt, the bank liquidator;
- (b) for a bank that is insolvent but not bankrupt, the bank itself;

“States loan” has the meaning given in Article 142O.

(2) In this Part, a bank is bankrupt if –

- (a) a bank winding up order has been made under Part 7 in respect of the bank; or
- (b) for a foreign bank, the bank has a status under a foreign law that the Authority considers is equivalent or similar to the status of a bank under sub-paragraph (a).

- (3) For the purpose of this Part, a reference to a situation as at the relevant date is a reference to the situation at the start of the day that falls on the relevant date.

142D Meaning of Community Savings Ltd

- (1) In this Part, “Community Savings Ltd” means the company that is an exempt person for the purposes of Article 8(2)(d) of the 1991 Law by virtue of paragraph 2 of Schedule 1 to the [Banking Business \(General Provisions\) \(Jersey\) Order 2002](#).
- (2) The Minister may by Order amend the definition “Community Savings Ltd” in paragraph (1).

142E Meaning of deposit, eligible deposit and eligible depositor

- (1) For the purpose of this Part –
“deposit” has the meaning given in Article 2 of the 1991 Law, but is to be read as if sub-paragraphs (b), [(c) and (e)] of paragraph (3) of that Article do not apply;
“eligible depositor” means a depositor mentioned in paragraph (2).
- (2) A deposit is an “eligible deposit” if it is held by a bank in an account in Jersey in respect of a depositor who is –
 - (a) a natural person and the deposit is for the person’s own benefit other than as a partner in a partnership;
 - (b) a natural person and the deposit is for the benefit of the person’s child or for the benefit of a child for whom the person has parental responsibility;
 - (c) the administrator or executor of a deceased person’s estate and the deposit represents the whole or part of the proceeds of that estate;
 - (d) Community Savings Ltd, if the deposit is made on behalf of a natural person who holds an account with Community Savings Ltd; or
 - (e) a registered charity within the meaning of the [Charities \(Jersey\) Law 2014](#), including Community Savings Ltd depositing in its own corporate capacity.
- (3) An eligible deposit with a bank in default does not include interest on the eligible deposit in respect of any period after the relevant date for the bank in default, despite the date of maturity of the eligible deposit.
- (4) If a person is an eligible depositor in more than 1 capacity under paragraph (2), the person is taken to be a separate eligible depositor in each capacity for the purpose of Article 142T.
- (5) For the purpose of paragraph (2) –
 - (a) a deposit that is “held by a bank in an account in Jersey” does not include a deposit held by a bank that is registered to carry on banking business in Jersey for business recovery reasons; and
 - (b) a person ceases to be a “child” on attaining the age of 18.
- (6) The Minister may by Regulations amend –
 - (a) the definition “deposit”;

- (b) the meaning of “eligible deposit” in paragraph (2).

142F Calculation of money standing to the credit of eligible deposit

- (1) If a bank is declared to be in default under Article 142I, the amount of money standing to the credit of an eligible deposit held by the bank in default is to be calculated as at the relevant date for the bank.
- (2) The amount of money standing to the credit of an eligible deposit held by the bank in default that is not in the currency of Jersey is to be calculated using either of the following rates as at the relevant date for the bank –
 - (a) the opening middle market exchange rate as determined by the Authority; or
 - (b) another exchange rate determined by the Authority and specified in a published notice.
- (3) Compensation paid by the Authority must be paid in the currency of Jersey.

142G Eligible deposit in joint account

- (1) In this Article, “joint account” means an account –
 - (a) that is in the names of 2 or more persons or over which 2 or more persons have rights; and
 - (b) that may be operated against the signature of 1 or more of those persons.
- (2) A deposit held in a joint account with a bank is an eligible deposit to the same extent as an eligible depositor has an interest in the account.
- (3) If an eligible deposit is held in a joint account with a bank, the amount in the account is to be divided –
 - (a) according to the holders’ shares in the account; but
 - (b) if there is no indication of the share of each holder, equally between them.

142H Grouping of banks for purposes of Scheme

- (1) The Minister may group banks in readiness for the possibility of a bank being declared to be in default under Article 142I.
- (2) If the Minister groups banks under paragraph (1), the Authority must publish a list showing the groups of banks.
- (3) The list must be published in a manner that is, in the opinion of the Authority, likely to bring the list to the attention of those affected by it.
- (4) The banks included in each group of banks are taken to be 1 bank for the purposes of calculating the depositors’ compensation levy and the depositors’ compensation to be paid in respect of those banks under this Law.
- (5) If a bank in a group becomes bankrupt, the depositors’ compensation levy must still be imposed on the group but the eligible deposits of the group must be calculated without reference to the eligible deposits of the bank in default.

DIVISION 3 – DECLARATION OF DEFAULT

142I Notice declaring bank to be in default

- (1) For the purposes of this Law, “bank in default” means a bank that has been declared to be in default under this Article.
- (2) As soon as practicable after the Authority determines that, in its opinion, a bank is bankrupt or insolvent, the Authority must –
 - (a) by published notice –
 - (i) declare the bank to be in default, and
 - (ii) specify the date on which the bank became a bank in default (“relevant date”);
 - (b) notify the Minister of the name of the bank and the relevant date.
- (3) The Minister must, as soon as practicable after being notified under paragraph (2)(b), inform the States of –
 - (a) the name of the bank in default; and
 - (b) the relevant date.
- (4) Paragraph (2) does not apply if, and for so long as, the Authority considers that –
 - (a) a resolution action or foreign resolution action other than bankruptcy proceedings has started and has not finished, or is likely to start within a reasonable time, in respect of the bank; and
 - (b) it is appropriate, in the light of that action, not to declare the bank to be in default for the time being or at all.
- (5) If, after the Authority has declared a bank to be in default, the Authority considers that sub-paragraphs (a) and (b) of paragraph (4) both apply, the Authority may postpone the performance of any of its functions under this Law, including the payment of depositors’ compensation, until it is satisfied that those sub-paragraphs no longer apply.
- (6) The Minister may, by Order, amend this Article to make alternative provision as to declaring a bank to be in default.
- (7) In this Article, “bankruptcy proceedings” means –
 - (a) proceedings for a bank winding up order under Part 7; or
 - (b) for a foreign bank, proceedings under a foreign law that the Authority considers are equivalent or similar to proceedings to wind up a bank under Part 7.

142J Notice under Article 142I may contain statement about vesting date

- (1) The Authority may include 1 of the following statements in a published notice under Article 142I –
 - (a) a statement that an eligible depositor’s compensatable rights are vested in the Authority under Article 142ZG as at the relevant date for the bank in default;

- (b) a statement that an eligible depositor's compensatable rights are vested in the Authority under Article 142ZG on a later date specified in the notice;
 - (c) subject to Article 142ZH(1), a statement that an eligible depositor's excess rights are vested in the Authority under Article 142ZH on a later date specified in the notice;
 - (d) a statement that the Authority will publish a further notice specifying the date (not being earlier than the date the further notice is published) on which an eligible depositor's compensatable rights are vested in the Authority under Article 142ZG;
 - (e) subject to Article 142ZH(1), a statement that the Authority will publish a further notice specifying the date (not being earlier than the date the further notice is published) on which an eligible depositor's excess rights are vested in the Authority under Article 142ZH.
- (2) A statement under paragraph (1) may specify that the statement relates to compensatable rights or excess rights in respect of all eligible deposits or a description of eligible deposits held by the bank in default as at the relevant date for the bank.
 - (3) If the published notice under Article 142I states that a further notice will be published, an eligible depositor's compensatable rights or excess rights are not vested in the Authority under Article 142ZG or 142ZH until the date specified in the further notice.
 - (4) In this Article, "later date" means a date after the relevant date for the bank in default.

142K Notice requiring banks to provide statement of relevant holding

- (1) The Authority must, as soon as practicable after declaring a bank to be in default under Article 142I, serve a notice on each bank (other than the bank in default) requiring the bank to provide to the Authority, within the time specified in the notice –
 - (a) a statement of the bank's relevant holding as at the relevant date for the bank in default; and
 - (b) any evidence required by the Authority in support of the statement.
- (2) The Authority must, as soon as practicable after declaring a bank to be in default under Article 142I, serve on the responsible person for the bank in default a notice requiring the responsible person to provide to the Authority –
 - (a) a statement of the bank in default's relevant holding, as at the relevant date for the bank in default; and
 - (b) any other information held by the bank in default that the Authority requires for calculating each payment of depositors' compensation to be made in respect of the default.
- (3) The Authority may serve on the responsible person a further notice requiring the responsible person to provide to the Authority any further information or documents relating to the bank that the Authority requires to carry out its functions under this Law.
- (4) The responsible person must provide the statement, information and documents required by a notice under paragraph (2) or (3) –

- (a) within the time and in the format specified in the notice; and
 - (b) verified in the manner required by the notice.
- (5) The Authority may, on the application of the bank or the responsible person, extend the time specified in a notice under this Article as the time for compliance with the notice.
- (6) A bank that fails, without reasonable cause, to comply with a notice under paragraph (1) is guilty of an offence and is liable to a fine.
- (7) A responsible person who without reasonable cause fails to comply with a notice under paragraph (2) or (3) is guilty of an offence and is liable to imprisonment for a term of 6 months and to a fine.
- (8) This Article applies to Community Savings Ltd as it applies to a bank.
- (9) For the purpose of paragraph (8), “relevant holding” means the total of the amounts that each natural person had in an account with Community Savings Ltd on the relevant date for the bank in default.

142L Further steps following declaration of default

- (1) The Authority must, as soon as is reasonably practicable after declaring a bank to be in default under Article 142I, make or activate any further arrangements it considers expedient to administer the Bank Depositors Compensation Scheme in respect of the bank in default.
- (2) Those arrangements must, in respect of depositors’ compensation not paid by way of straight-through pay-out (within the meaning of Article 142Q), be designed in particular to ensure that –
- (a) applications for that depositors’ compensation are submitted to the Authority as soon as practicable;
 - (b) applicants for that depositors’ compensation are given clear instructions on how they may apply for depositors’ compensation; and
 - (c) each claim for that depositors’ compensation is properly verified.

DIVISION 4 – DEPOSITORS COMPENSATION FUNDS

142M Establishment of depositors compensation funds

- (1) The Authority must –
- (a) establish and maintain a separate depositors’ compensation fund for each bank in default; and
 - (b) pay into the depositors’ compensation fund all money received by the Authority in respect of the default.
- (2) Paragraph (1)(b) applies whether or not money is received –
- (a) as a loan (including a States loan);
 - (b) as a depositors’ compensation levy;
 - (c) by way of adjustment under Article 142ZC(5)(b);
 - (d) as an amount described in Article 142ZG(6);
 - (e) as an amount described in Article 142ZH(6); or

- (f) otherwise.
- (3) The Authority must not make a payment out of a depositors' compensation fund established for a bank in default, other than –
 - (a) a payment of default-related administrative costs in respect of that default;
 - (b) payment of depositors' compensation in respect of that default;
 - (c) payment under Article 142N(1)(d), (e) or (f) in respect of that default; and
 - (d) payment to another depositors' compensation fund by way of adjustment under Article 142ZC(5)(b).
- (4) Unless otherwise expressly provided by this Law, the source of money paid into a depositors' compensation fund does not limit any power or duty of the Authority to make a payment out of that fund.
- (5) In this Law, “default-related administrative cost” means an amount that –
 - (a) is payable by the Authority (other than an amount payable under paragraph (3)(b), (c) or (d)); and
 - (b) in the opinion of the Authority, is attributable to the operation of the Bank Depositors Compensation Scheme in respect of a bank in default.
- (6) A default-related administrative cost may include –
 - (a) repayments of borrowings paid into the depositors' compensation fund (subject to Article 142O), and associated interest and costs;
 - (b) costs of and related to insurance against the Authority's liabilities in respect of the depositors' compensation fund or the bank in default;
 - (c) expenses of the members of the Authority that would not have been incurred but for the default; and
 - (d) an increase, attributable to a default, in the amount of a payment that would have been made at a lower rate but for the default.

142N Order of priority and timing of payments out of depositors compensation funds

- (1) Subject to Article 142O and this Article, the order of priority for payments out of a depositors' compensation fund for a bank in default is –
 - (a) payment to another depositors' compensation fund by way of adjustment under Article 142ZC(5)(b);
 - (b) payment of default-related administrative costs;
 - (c) payment of depositors' compensation to eligible depositors;
 - (d) payment to each eligible depositor whose excess rights were vested in the Authority under Article 142ZH, of the amount in respect of which the eligible depositor's excess rights were so vested;
 - (e) repayment of any States loan;
 - (f) repayment, to each bank that paid a depositors' compensation levy in respect of the bank in default, of the amount paid by each bank.
- (2) Subject to paragraphs (3) and (4), the Authority –

- (a) may make a payment of default-related administrative costs before making a payment to another depositors' compensation fund by way of adjustment under Article 142ZC(5)(b);
 - (b) may make a payment of depositors' compensation before making –
 - (i) a payment to another depositors' compensation fund by way of adjustment under Article 142ZC(5)(b), or
 - (ii) a payment of default-related administrative costs; and
 - (c) in deciding to make a payment of depositors' compensation to an eligible depositor before assessing or paying an amount of depositors' compensation to another eligible depositor, may take account of –
 - (i) the need, charitable status or other characteristics of an eligible depositor, or
 - (ii) any other factor affecting the assessment or payment of depositors' compensation to an eligible depositor.
- (3) When making a payment out of the depositors' compensation fund, the Authority must seek to ensure that, on completion of the depositors' compensation exercise, the order of priority will be satisfied.
- (4) When making a payment of depositors' compensation, the Authority must in addition seek to ensure that, on completion of the depositors' compensation exercise, if there will be insufficient money in the depositors' compensation fund to pay the maximum amount of depositors' compensation to every eligible depositor, the total amount paid in depositors' compensation in respect of each eligible depositor will be reduced –
- (a) by a proportional amount (disregarding any deduction under Article 142U or 142V) calculated in a manner that the Authority considers to be appropriate; or
 - (b) in any other manner that the Authority considers to be equitable in the circumstances.
- (5) In respect of each of sub-paragraphs (d) to (f) of paragraph (1), the Authority –
- (a) must not make a payment under that sub-paragraph unless money remains in the depositors' compensation fund after the Authority has paid in full all of the amounts described in the sub-paragraphs of paragraph (1) that precede that sub-paragraph; and
 - (b) must apply any money remaining in the depositors' compensation fund to payment under that sub-paragraph, subject to paragraphs (6) to (8).
- (6) The total amount paid under paragraph (1)(d) must not exceed, despite Article 142M(4), the amount by which the total amount paid into the depositors' compensation fund under Articles 142ZG(6) and 142ZH(6) exceeded the total amount of depositors' compensation paid by the Authority.
- (7) If the remaining money, or the amount of that money that is available under paragraph (6), is insufficient for the Authority to make payment in full under paragraph (1)(d), the Authority must reduce payment to each eligible depositor under paragraph (1)(d) –
- (a) by a proportional amount, calculated in a manner that the Authority considers to be appropriate; or
 - (b) if the Authority considers that it is appropriate in a particular default, whether for operational or other reasons, to depart from the general rule

in sub-paragraph (a), in any other manner that the Authority considers to be appropriate.

- (8) If the remaining money is insufficient for the Authority to make payment in full under paragraph (1)(f), the Authority must reduce payment to each bank –
- (a) in proportion to the amount of levy paid by each bank; or
 - (b) in any other manner that the Authority considers to be appropriate in the circumstances.

142O States loan to Authority in respect of bank in default

- (1) This Article applies to a loan made by the States to the Authority for the purpose of funding a depositors' compensation fund (a "States loan").
- (2) Subject to paragraph (5), the repayment of the States loan (as distinct from the payment of any interest or costs associated with that loan) is not a default-related administrative cost, despite Article 142M(5)(a).
- (3) Despite Articles 142M(4) and 142N, the Authority –
 - (a) must apply the States loan to the payment of depositors' compensation and default-related administrative costs; and
 - (b) must apply any money received by way of depositors' compensation levy firstly to the repayment of the States loan and repayment of any interest and costs associated with that loan, and secondly to any other payments under Article 142N.
- (4) Paragraph (3)(b) does not apply to the extent that the Minister has given the Authority a notice under paragraph (5).
- (5) The Minister, after consultation with the Minister for Treasury and Resources, may, by notice to the Authority, permit the Authority to apply all, or a specified amount, of money received by way of depositors' compensation levy to the payment of depositors' compensation, in preference to payment to the States under paragraph (3)(b).
- (6) The Minister may, in a notice given under paragraph (5), specify that paragraph (2) is not to apply to the repayment of all, or a specified amount, of any of the States loan that remains due after the payment of depositors' compensation permitted by the notice.
- (7) In paragraphs (5) and (6), "specified amount" means an amount –
 - (a) specified in the notice; or
 - (b) calculated or otherwise determined in a manner specified in the notice.

DIVISION 5 – PAYMENT OF DEPOSITORS COMPENSATION

142P Authority must pay depositors compensation by primary payment date

- (1) The Authority must, on or before the primary payment date for a bank in default, pay to an eligible depositor, in respect of an eligible deposit, the maximum amount of depositors' compensation payable to the eligible depositor in respect of the bank in default.

- (2) For the purpose of this Article, the primary payment date for a bank in default is 7 working days after the day on which the Authority is satisfied that the responsible person for that bank has complied with the notice under Article 142K(2).
- (3) The Authority may pay depositors' compensation, in respect of an eligible depositor who is not resident in Jersey, to another person for onward payment to the eligible depositor, if the Authority considers that to do so would more efficiently achieve payment to the eligible depositor.
- (4) If the Authority is not satisfied that both conditions in paragraph (5) are met, the Authority may pay, for the purpose of paragraph (1), a part of the maximum amount of depositors' compensation payable to the eligible depositor in respect of the bank in default, being an amount that appears prudent to the Authority having regard to Article 142N.
- (5) The conditions are –
 - (a) that there is sufficient money in the depositors' compensation fund for the Authority to make all payments of maximum amounts of depositors' compensation; and
 - (b) that there is, or will be by the completion of the depositors' compensation exercise, sufficient money in the depositors' compensation fund for the Authority to pay all the default-related administrative costs in full.
- (6) If the Authority makes a part payment under paragraph (4), the Authority must make further payments, towards the remaining part of the maximum amount of depositors' compensation, at any subsequent time when it is satisfied that there is sufficient money in the depositors' compensation fund to enable it to do so without contravening Article 142N.
- (7) Paragraphs (1), (4) and (6) are subject to the powers of the Authority under Articles 142I(5), 142S(1)(a), 142ZL(6)(a), 142ZG(4), 142ZH(4)(a) and 142ZI(5)(b) to postpone payment of depositors' compensation.
- (8) The Authority must not pay depositors' compensation in respect of a bank in default more than 5 years after the relevant date for the bank.
- (9) The Authority may, by published notice, postpone the primary payment date for a bank in default if the Authority and the Minister are satisfied that –
 - (a) to do so would assist the Authority in the application of Article 142N(4); or
 - (b) it is otherwise appropriate to do so for the better administration of the Bank Depositors Compensation Scheme or for a related purpose.

142Q Straight-through pay-out

- (1) The Authority must pay depositors' compensation (by way of straight-through pay-out) without requiring an application under Article 142R, unless it publishes a notice under paragraph (4) in respect of that depositors' compensation.
- (2) Paragraph (4) applies if, in the opinion of the Authority, it is not reasonable in the circumstances to assess depositors' compensation, or depositors' compensation in respect of a description of eligible deposits, without any

additional information or evidence that might be provided by applications under Article 142R.

- (3) In making a determination under paragraph (2) the Authority must have particular regard to –
 - (a) the information that the Authority holds on the bank and the eligible deposits (whether derived from the records of the bank or elsewhere);
 - (b) any practical constraint on the ability of the Authority to make payments by way of straight-through pay-out in the particular circumstances of the default; and
 - (c) the Authority's function of timely payment of depositors' compensation under Article 7(2).
- (4) If this paragraph applies, the Authority may, by published notice, require an application to be made to the Authority under Article 142R –
 - (a) for all depositors' compensation payable in respect of the bank in default; or
 - (b) for depositors' compensation payable in respect of a description, specified in the notice, of eligible deposits held by that bank.
- (5) For the purpose of paragraph (4)(b) a description of eligible deposits may be framed in terms of –
 - (a) the amounts or any other characteristics of the eligible deposits;
 - (b) any characteristics of eligible depositors or other persons with a relationship to the eligible deposits; or
 - (c) any other factor relating to the eligible deposits.

142R Application for depositors compensation not payable by way of straight-through pay-out

- (1) This Article applies to depositors' compensation in respect of which the Authority has published a notice under Article 142Q(4) requiring an application to be made to the Authority.
- (2) An application for that compensation must, to the satisfaction of the Authority –
 - (a) specify the name and address of the applicant;
 - (b) provide sufficient evidence to show that the applicant is an eligible depositor;
 - (c) provide sufficient evidence to identify the applicant's eligible deposit and the amount of the eligible deposit;
 - (d) contain details of any payments mentioned in Article 142V(1) and (2) that the applicant has received;
 - (e) specify the manner in which any depositors' compensation payable by the Authority to the applicant is to be paid; and
 - (f) contain or provide any other information or matter necessary to allow the Authority to verify the applicant's claim for depositors' compensation and to pay the depositors' compensation to the applicant.

- (3) Despite Article 142P(1), (4) and (6) and Article 142W(3), the Authority must not pay the depositors' compensation unless the Authority has received an application complying with paragraph (2) for that depositors' compensation –
 - (a) within 6 months after the relevant date for the bank in default; or
 - (b) within a longer period that the Authority considers reasonable, subject to Article 142P(8), if the Authority is satisfied that the applicant was prevented by events outside the applicant's control from applying within the period mentioned in sub-paragraph (a).

142S Postponement of and refusal to pay depositors compensation

- (1) If it appears to the Authority that 1 or more of the grounds in paragraph (2) applies, the Authority may –
 - (a) postpone a payment of depositors' compensation in respect of an eligible deposit; or
 - (b) refuse to make the payment.
- (2) The grounds are –
 - (a) that there is any reason for which the bank in default would, but for the default, have had a right or duty to postpone or refuse payment of the eligible deposit;
 - (b) that the account in which the eligible deposit is held may be dormant for any reason; or
 - (c) that there is any other reason justifying the exercise of the power conferred by paragraph (1) in the circumstances.
- (3) The reasons that may be taken into account under paragraph (2)(a) include –
 - (a) a reason related to seizure, detention, restraint, freezing, forfeiture, confiscation or other prohibition of dealing under any 1 or more of the following –
 - (i) anti-money laundering and counter-terrorism legislation, within the meaning of Article 3 of the [Proceeds of Crime \(Supervisory Bodies\) \(Jersey\) Law 2008](#),
 - (ii) the [Forfeiture of Assets \(Civil Proceedings\) \(Jersey\) Law 2018](#),
 - (iii) the [Criminal Justice \(International Co-operation\) \(Jersey\) Law 2001](#), or any Regulations or Order made under that Law,
 - (iv) an Order made under Article 2(1) of the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#), and
 - (v) any similar legislation under the law of a country or territory outside Jersey; and
 - (b) any other reason related to an injunction, ownership dispute, pending or ongoing litigation or court order, or death or disability of the eligible depositor.
- (4) The reasons that may be taken into account under paragraph (2)(b) include –
 - (a) that any records of the bank in default class the account as dormant;
 - (b) that 2 months or more have passed without a response to a communication sent by the Authority to an address recorded as that of the eligible depositor in the records of the bank in default;

- (c) that the account otherwise appears to be dormant within the meaning of any enactment of Jersey or a foreign law that appears to the Authority to be relevant; and
 - (d) any other reason for which an account might reasonably be described as dormant.
- (5) In assessing a reason for the purpose of paragraph (2)(c), the Authority may, without limitation, have regard to –
- (a) the Authority’s general function to administer the Bank Depositors Compensation Scheme; and
 - (b) the desirability of administering the Bank Depositors Compensation Scheme for any default so that the maximum amount of depositors’ compensation is paid to each eligible depositor, or, if that is not possible, so that the depositors’ compensation is paid as fully as appears to the Authority to be practicable and fair in the circumstances.
- (6) A postponement of payment of depositors’ compensation under this Article takes effect as a refusal of payment under this Article, if the postponement would otherwise extend beyond the time allowed for payment by Article 142P(8).
- (7) Paragraph (8) applies if –
- (a) a right in respect of an eligible deposit is vested in the Authority under Article 142ZG or 142ZH; and
 - (b) the Authority refuses to pay depositors’ compensation under this Article in relation to that deposit.
- (8) If this paragraph applies –
- (a) the Authority must repay to the responsible person any amount the Authority has received from that person by virtue of Article 142ZG or 142ZH in respect of the right; and
 - (b) the right vests back in the eligible depositor whose right it was before it vested in the Authority.

142T Maximum amount of depositors compensation

- (1) The maximum amount of depositors’ compensation that the Authority may pay to an eligible depositor (in each capacity in Article 142E(2)) in respect of a bank in default is the lesser of –
- (a) £50,000; or
 - (b) an amount equal to the total amount of eligible deposits held by the bank in respect of the eligible depositor (in that capacity) as at the relevant date for the bank.
- (2) In calculating the amount for the purpose of paragraph (1)(b), no account is to be taken of any right (whether under an enactment, a provision of a contract, a rule of customary law, a law of another jurisdiction, or otherwise) of set-off or counter-claim that the bank may have against the eligible depositor or the eligible deposit, or of any similar right that might otherwise reduce the amount.
- (3) Despite paragraph (1), the maximum amount of depositors’ compensation that the Authority may pay to Community Savings Ltd in its capacity in

Article 142E(2)(d) in respect of a bank in default is an amount equal to the total of the amounts that each natural person had in an account with Community Savings Ltd on the relevant date for the bank in default, subject to a maximum of £50,000 for each natural person.

- (4) References in this Law to the maximum amount of depositors' compensation are to the amount calculated under this Article, as read with Articles 142S(1)(b), 142U and 142V.
- (5) The Minister may by Order amend paragraph (3) to make alternative provision for the application of this Article to Community Savings Ltd.

142U Entitlement under overseas depositors compensation scheme

- (1) This Regulation applies if an eligible depositor in respect of a bank in default is entitled to receive compensation under an overseas depositors' compensation scheme.
- (2) The eligible depositor is not entitled to receive depositors' compensation under this Law except to the extent that the Authority agrees with the person or body administering the overseas depositors' compensation scheme.
- (3) In the absence of agreement under paragraph (2), the Authority may pay depositors' compensation to the eligible depositor if the total amount of compensation paid to the eligible depositor does not exceed the maximum amount of depositors' compensation.
- (4) In paragraph (3), "total amount of compensation" means the total of –
 - (a) the amount of depositors' compensation paid by the Authority to the eligible depositor; and
 - (b) any compensation the eligible depositor receives under the overseas depositors' compensation scheme.

142V Reduction in amount of depositors compensation

- (1) The Authority must use its best endeavours to ensure that an amount equal to any payments that an eligible depositor receives in respect of an eligible deposit other than by way of depositors' compensation is deducted from the amount of depositors' compensation paid to the eligible depositor in respect of the eligible deposit.
- (2) For the purpose of this Article, payments that an eligible depositor receives in respect of an eligible deposit other than by way of depositors' compensation include an amount that the eligible depositor has received from –
 - (a) an overseas depositors' compensation scheme;
 - (b) an insurance policy taken out by or on behalf of the eligible depositor; or
 - (c) the responsible person for the bank in default.
- (3) A payment that an eligible depositor receives in respect of an eligible deposit other than by way of depositors' compensation is to be disregarded for the purpose of paragraph (1) if the eligible depositor pays to the Authority an amount equal to that payment under Article 142ZG(2)(b), 142ZG(5)(b) or 142ZH(5)(c).

- (4) An eligible depositor who is paid depositors' compensation by the Authority and subsequently receives a payment falling within paragraph (5) must, within 30 working days of receiving the payment falling within paragraph (5), pay to the Authority whichever is the lesser of –
 - (a) the amount of the payment falling within paragraph (5); and
 - (b) the amount of depositors' compensation paid to the eligible depositor.
- (5) A payment falls within this paragraph if –
 - (a) it is a payment that the eligible depositor receives in respect of an eligible deposit other than by way of depositors' compensation;
 - (b) it is received by the eligible depositor after the Authority has paid depositors' compensation to the eligible depositor, but before the completion of the depositors' compensation exercise; and
 - (c) the payment and the depositors' compensation are both in respect of the same eligible deposit.
- (6) A person who, without reasonable cause, contravenes paragraph (4) is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

DIVISION 6 – WINDING UP AND COMPLETION OF DEPOSITORS COMPENSATION EXERCISE

142W Winding up of depositors compensation exercise

- (1) The Authority must complete payment of all default-related administrative costs in respect of a bank in default within 5 years after the relevant date for the bank.
- (2) The “winding-up date” for the purpose of this Article is the date (being less than 5 years after the relevant date) on which the Authority is first satisfied as to all of the following –
 - (a) that it has completed payment of all default-related administrative costs;
 - (b) that it has repaid the full amount due in respect of a States loan, or that it will be able to do so after receiving further payments of depositors' compensation levy in respect of the bank in default;
 - (c) that it is unlikely to receive further payments of depositors' compensation levy, other than payments taken into account under sub-paragraph (b); and
 - (d) that it is unlikely to receive any further payments under rights vested in it under Article 142ZG or 142ZH.
- (3) As soon as practicable after the winding-up date, the Authority must assess and make –
 - (a) any outstanding further payments of depositors' compensation under Article 142P(6) to each eligible depositor in respect of the bank in default, up to the maximum amount of depositors' compensation (subject to Article 142N(4)) if there is insufficient money in the depositors' compensation fund to pay the maximum amount of depositors' compensation to every eligible depositor);

- (b) any payments to eligible depositors under Article 142N(1)(d) of amounts in respect of excess rights vested in the Authority; and
 - (c) a repayment to each bank under Article 142N(1)(f) of the amount of depositors' compensation levy paid by the bank, if the Authority has repaid the full amount due in respect of a States loan.
- (4) Paragraph (5) applies if, on the winding-up date –
 - (a) the Authority still holds a right in respect of an amount that was assigned to it under Article 142ZG or 142ZH; and
 - (b) that right has not been realised.
- (5) The Authority must, as soon as practicable after the winding-up date, assign the right in the following order and in respect of the following amounts –
 - (a) first, if amounts of depositors' compensation paid to eligible depositors were reduced under Article 142N(4), to those eligible depositors in respect of the amounts of those reductions;
 - (b) second, if payments of amounts in respect of excess rights vested in the Authority were due to eligible depositors under Article 142N(1)(d) but were not made in full, to those eligible depositors in respect of the amounts remaining unpaid;
 - (c) third, if any States loan was not repaid in full by the winding-up date, to the States in respect of the amount remaining unpaid; and
 - (d) fourth, if the banks that paid a depositors' compensation levy in respect of a bank in default were not repaid in full under Article 142N(1)(f), to those banks in respect of the amounts remaining unpaid.
- (6) For the purposes of the sub-paragraphs of paragraph (5) the Authority must –
 - (a) before assigning a right under any sub-paragraph, satisfy itself that it can comply in full with each sub-paragraph preceding that sub-paragraph; and
 - (b) in assigning rights to persons under a sub-paragraph with which it cannot comply in full, assign the rights to amounts proportionally or in any other manner that the Authority considers to be appropriate in the circumstances.
- (7) In carrying out its functions under paragraphs (5) and (6) and under Article 142ZI(1), the Authority must ensure that, in respect of every eligible depositor from whom an excess right was assigned to the Authority under Article 142ZH, no later than the completion of the depositors' compensation exercise and as soon as will not prejudice the operation of the Bank Depositors Compensation Scheme –
 - (a) the payment amount equals the taken rights amount; or
 - (b) if the payment amount is less than the taken rights amount, the returned rights amount equals the difference between the payment amount and the taken rights amount.
- (8) For the purpose of paragraph (7) –
 - (a) the “payment amount” is the total of the amounts paid to the eligible depositor as depositors' compensation or as any other form of payment under this Law or under an agreement under this Law;

- (b) the “taken rights amount” is the total of the amounts in respect of which compensatable or excess rights of the eligible depositor were assigned to the Authority from the eligible depositor; and
 - (c) the “returned rights amount” is the total of the amounts in respect of which rights have been assigned to the eligible depositor by the Authority under paragraph (5) or under Article 142ZI(1) (whether those rights were assigned to the Authority from the eligible depositor or from another person).
- (9) For the purposes of the sub-paragraphs of paragraph (5), the power of the Authority to assign rights vested in the Authority is not limited by reference to the source of those rights before they were vested in the Authority.
- (10) Accordingly –
- (a) an eligible depositor from whom a right was assigned to the Authority is not entitled to assignment of all or part of that right;
 - (b) to comply with a particular sub-paragraph of paragraph (5), a right may be assigned to an eligible depositor whether or not the right was assigned to the Authority from another eligible depositor, or the right may be assigned to the States or to a bank;
 - (c) rights to amounts may be assigned by the Authority as parts of the rights held by the Authority, without specifying the eligible depositor from whom the rights were assigned to the Authority;
 - (d) rights to amounts may be assigned to eligible depositors (or to banks) by reference to a description of eligible depositor and a formula as to the amount, without identifying each eligible depositor or specifying each amount.
- (11) The Authority –
- (a) may comply with paragraph (3) or (5) before, on or after the primary payment date (within the meaning given in Article 142P(2)), but must do so no later than 5 years after the relevant date for the bank in default; and
 - (b) must, when making an assignment under Article 142ZI(1) before the winding-up date, seek to ensure that it will have complied with paragraph (5) on completion of the depositors’ compensation exercise.

142X Completion of depositors compensation exercise

- (1) As soon as practicable after it has complied with Article 142W(3) and (5), the Authority must, by published notice, declare the completion of the depositors’ compensation exercise for a bank in default.
- (2) As soon as practicable after publishing the notice under paragraph (1), the Authority must –
 - (a) prepare accounts for the period beginning with the relevant date for the bank in default and ending with the completion of the depositors’ compensation exercise;
 - (b) have those accounts audited by an auditor, as defined by Article 102(1) of the [Companies \(Jersey\) Law 1991](#);
 - (c) prepare a report containing –

- (i) details of the Authority's activities in relation to the bank in default over the period described in sub-paragraph (a), and
 - (ii) any other information as directed by the Minister; and
 - (d) provide the Minister with the audited accounts and the report.
- (3) The Minister must lay the accounts and report before the States as soon as practicable after receiving them.

DIVISION 7 – DEPOSITORS COMPENSATION LEVY

142Y Liability to pay depositors compensation levy in respect of bank in default

- (1) This Article applies if a bank is declared under Article 142I to be in default (“bank in default”).
- (2) Each bank that held eligible deposits on the relevant date for the bank in default is liable to pay a depositors' compensation levy in respect of the bank in default.
- (3) Paragraph (2) does not apply to another bank in default.

142Z Notice of depositors compensation levy

- (1) The Authority –
 - (a) must calculate the amount of depositors' compensation levy to be paid by each bank liable to pay the levy; and
 - (b) must, as soon as practicable and no later than 6 months after the relevant date for the bank in default, serve on each bank liable to pay the levy a written notice requiring it to pay the levy.
- (2) A notice under paragraph (1)(b) must specify –
 - (a) the amount of depositors' compensation levy the bank is required to pay;
 - (b) how the levy has been calculated; and
 - (c) the date or dates on which the levy or an instalment of the levy becomes payable.
- (3) The Authority may at any time, by written notice served on each bank liable to pay the depositors' compensation levy, require the bank to pay an additional levy if satisfied that it has become necessary to do so.
- (4) Paragraph (5) applies if –
 - (a) a bank fails to provide a statement of the bank's relevant holding (as required by a notice under Article 142K(2)(a)) within the time specified in the notice; or
 - (b) the Authority is satisfied that the statement of a bank's relevant holding provided under that Article is materially inaccurate.
- (5) The Authority may, by written notice served on the bank, require the bank to pay an additional levy representing any underpayment that the Authority considers is attributable to that failure or inaccuracy, after taking account of the effect of sub-paragraphs (a) and (b) of the definition of “A” in the formula

in Article 142ZB (amount of depositors compensation levy to be paid by each bank).

- (6) A notice under paragraph (3) or (5) must specify –
 - (a) the amount of additional levy the bank is required to pay;
 - (b) how the additional levy has been calculated; and
 - (c) the date or dates on which the additional levy or an instalment of the levy becomes payable.
- (7) A bank served with a notice under this Article must pay the levy or instalment on the date specified in the notice as the date on which that levy or instalment becomes payable.
- (8) A levy or instalment that has become payable is a debt due to the Authority and may be sued for.

142ZA Total amount of depositors compensation levy

- (1) This Article applies subject to the limitations set out in Articles 142ZC(5)(b) and 142ZD.
- (2) The total amount of depositors' compensation levy to be paid by the banks liable to pay the levy in respect of a bank in default must be an amount that the Authority estimates will meet –
 - (a) the payment of depositors' compensation in respect of the bank in default;
 - (b) default-related administrative costs; and
 - (c) the repayment of any States loan.

142ZB Amount of depositors compensation levy to be paid by each bank

Subject to the limitations set out in Articles 142ZC(5)(b) and 142ZD, the Authority must require each bank liable to pay a depositors' compensation levy in respect of a bank in default to pay by way of depositors' compensation levy A/B of the amount required for the purposes mentioned in Article 142ZA where –

A = the amount stated by the bank in compliance with the notice under Article 142K(1)(a), or, if the bank failed to comply with that notice, the amount most recently stated by the bank –

- (a) under Article 142ZN(2)(a) or (3); or
- (b) in compliance with a notice falling within Article 142ZO(1); and

B = the total of the amounts stated in accordance with A by all the banks liable to pay a depositors' compensation levy.

142ZC Limitation on amount Authority may raise by way of depositors compensation levy

- (1) The maximum amount that the Authority may raise by way of depositors' compensation levy in respect of 1 or more banks in default over any period of 5 years (whether the period begins with a relevant date or another date) is £100 million.

- (2) Paragraphs (3) to (5) apply if –
 - (a) a bank (“Bank A”) is declared to be in default;
 - (b) another bank (“Bank B”) is declared to be in default; and
 - (c) the relevant date for Bank B is the same as, or within the period of 5 years after, the relevant date for Bank A.
- (3) If the relevant date for Bank B is on or after the date of the making of the first payment of depositors’ compensation for Bank A, the Authority must, for the purpose of paragraph (1) –
 - (a) raise a depositors’ compensation levy in respect of Bank A in preference to a depositors’ compensation levy in respect of Bank B; or
 - (b) apply the limitation under paragraph (1) to the raising of depositors’ compensation levies in respect of Bank A and Bank B in another manner, as to preference, proportion or otherwise as between the banks, that the Authority considers equitable in the circumstances.
- (4) If the relevant date for Bank B is before the date of the making of the first payment of depositors’ compensation in respect of Bank A, the Authority must, for the purpose of paragraph (1) –
 - (a) raise depositors’ compensation levies in respect of Bank A and Bank B in proportion to the Authority’s estimate of the total depositors’ compensation payable in respect of each bank; or
 - (b) apply the limitation under paragraph (1) to the raising of depositors’ compensation levies in respect of Bank A and Bank B in another manner, as to preference, proportion or otherwise as between the banks, that the Authority considers equitable in the circumstances.
- (5) If, as a result of the operation of paragraph (3)(b), (4)(a) or (4)(b), the Authority considers that a depositors’ compensation levy demanded in respect of Bank A should be applied in respect of Bank B, the Authority may –
 - (a) treat the depositors’ compensation levy as payable in respect of Bank B; and
 - (b) if the Authority has paid the proceeds of the depositors’ compensation levy into the depositors’ compensation fund for Bank A, make a payment, of any amount it considers expedient by way of adjustment, from that depositors’ compensation fund to the depositors’ compensation fund for Bank B.

142ZD Limitation on liability of banks to pay depositors compensation levy

- (1) Subject to the limit set out in paragraph (2), the maximum amount the Authority may require a bank (“Bank A”) to pay by way of depositors’ compensation levy in respect of a bank in default (“Bank B”) is an amount equal to 0.3% of the eligible deposits held by Bank A on the relevant date for Bank B.
- (2) In any 5-year period, the maximum amount for which a bank may be liable by way of depositors’ compensation levy in respect of 1 or more banks in default is –
 - (a) if the amount calculated under paragraph (1) is £10 million or more, £10 million; and

- (b) if the amount calculated under paragraph (1) is less than £10 million, £5 million.
- (3) The maximum amount for which a bank may be liable by way of depositors' compensation levy in respect of 1 or more banks in default is –
 - (a) for a bank to which paragraph (2)(a) applies, £2 million in respect of any period of 12 months; and
 - (b) for any other bank, £1 million in respect of any period of 12 months.
- (4) The Authority may not require a bank to pay a depositors' compensation levy in respect of a bank in default more than 5 years after the relevant date for the bank in default.
- (5) But nothing in paragraph (4) prohibits the enforcement, after the 5-year period, of a requirement to pay a depositors' compensation levy falling due before the end of that period.

142ZE Extension of periods of 5 years

- (1) The Authority, with the consent of the Minister, may by published notice extend any period of 5 years mentioned in Articles 142P, 142W, 142X, 142ZC and 142ZD in relation to a bank in default to a date specified in the notice.
- (2) The extension of any 5-year period under paragraph (1) does not have the effect of increasing the total amount of depositors' compensation levy estimated by the Authority under Article 142ZA as payable by banks in respect of a bank in default.

DIVISION 8 – ASSIGNMENT OF RIGHTS TO THE AUTHORITY

142ZF Assignment of rights to Authority: interpretation

- (1) In this Division –
 - “assignment”, in respect of a right held by a person, includes assignment of the right by contract to another person, vesting of the right in another person by operation of law, and assignment of the right in any other manner to another person;
 - “compensatable right” means, subject to paragraph (2), a relevant right other than an excess right;
 - “excess right” means a relevant right in respect of the amount of eligible deposit that exceeds the maximum amount of depositors' compensation;
 - “later date” means a date after the relevant date for the bank in default;
 - “relevant right” means a right (whether under the law of Jersey or a foreign law) of an eligible depositor in respect of an eligible deposit held by a bank in default on the relevant date for the bank, or that right as subsequently vested in another person under this Part.
- (2) Paragraph (3) applies if the maximum amount of depositors' compensation is reduced under Article 142V (without regard to any power or duty of the Authority to pay less than the maximum amount of depositors' compensation).

- (3) A relevant right in respect of the amount of an eligible deposit that equals the amount of the reduction described in paragraph (2) is neither a compensatable right nor an excess right for the purpose of paragraph (1).

142ZG Assignment of rights to Authority: compensatable rights

- (1) An eligible depositor's compensatable rights in respect of an eligible deposit with a bank in default are vested in the Authority on the vesting date for those rights.
- (2) On and after the vesting date for those rights, the eligible depositor must –
 - (a) provide any assistance the Authority may require to enable the Authority to exercise a compensatable right vested in it in respect of the eligible deposit; and
 - (b) promptly notify the Authority of any amount the eligible depositor receives on or after the relevant date in respect of the eligible depositor's compensatable right, and pay that amount to the Authority as soon as is practicable.
- (3) Paragraph (4) applies if –
 - (a) a later date is specified in a published notice under Article 142I as the vesting date for an eligible depositor's compensatable rights in respect of an eligible deposit, and that date has not yet been reached; or
 - (b) the eligible deposits are held by a branch of a foreign bank, and the Authority considers that there is a risk that the effect of paragraphs (1) and (2), in respect of an eligible deposit, may not be recognised under a foreign law.
- (4) The Authority may postpone payment of depositors' compensation in respect of the eligible deposit until the eligible depositor enters into –
 - (a) a written agreement with the Authority that paragraphs (1) and (2) are to apply in respect of the eligible deposit; or
 - (b) a contract, under the law of Jersey or a foreign law, that contains provisions having effect equivalent, to the satisfaction of the Authority, to the effect of applying paragraphs (1) and (2) in respect of the eligible deposit.
- (5) If the eligible depositor enters into a written agreement or contract under paragraph (4) –
 - (a) the eligible depositor must provide any assistance the Authority may require to enable the Authority to exercise the compensatable rights vested by the agreement; and
 - (b) the eligible depositor must promptly notify the Authority of any amount the eligible depositor receives on or after the relevant date in respect of the eligible depositor's compensatable rights, and pay that amount to the Authority as soon as is practicable.
- (6) The Authority must pay into the depositors' compensation fund for the bank in default –
 - (a) any amount paid to the Authority under a compensatable right vested in it under this Article; and
 - (b) any amount paid to it under paragraph (2)(b) or (5)(b).

- (7) In this Article, “vesting date”, in relation to compensatable rights, means –
- (a) the relevant date, unless paragraph (b) applies;
 - (b) a later date specified in a published notice under Article 142I as the vesting date for those rights.

142ZH Assignment of rights to Authority: excess rights

- (1) If the Authority considers that it is expedient to do so for any reason listed in paragraph (2), the Authority may specify a later date in a published notice under Article 142I as the vesting date for excess rights in respect of all eligible deposits, or a description of eligible deposits, held by a bank in default.
- (2) The reasons are –
- (a) to counteract any prejudice (within the meaning of Article 142ZL(4)) likely to be caused to the Scheme by the operation of a foreign law;
 - (b) to achieve, in any other respect, an effect closer to the effect of the order of priority under Article 30, Article 142N or Article 142W(5);
 - (c) to achieve more timely payment of depositors’ compensation to some or all eligible depositors; or
 - (d) any other reason related to the better performance of the Authority’s functions in relation to the Scheme.
- (3) Paragraph (4) applies if –
- (a) a later date is specified in a published notice under Article 142I as the vesting date for excess rights in respect of all eligible deposits or a description of eligible deposits, and that date has not yet been reached; or
 - (b) an eligible deposit is held by a branch of a foreign bank, and the Authority considers that there is a risk that the effect of paragraph (5)(a) in respect of excess rights may not be recognised under a foreign law.
- (4) If the Authority considers that it is expedient to do so for any reason listed in paragraph (2), the Authority may –
- (a) postpone payment of depositors’ compensation in respect of an eligible deposit until the eligible depositor enters into –
 - (i) a written agreement with the Authority to the effect that paragraph (5) applies in respect of the eligible deposit from the date specified in the written agreement, or
 - (ii) a contract, under the law of Jersey or a foreign law, that contains provisions having effect equivalent, to the satisfaction of the Authority, to the effect of applying paragraph (5) to the eligible deposit from the date specified in the contract; and
 - (b) treat the depositor as not being an eligible depositor if the depositor fails to enter into the written agreement or contract within a time specified by the Authority by notice in writing to the eligible depositor.
- (5) If an eligible depositor enters into a written agreement or contract under paragraph (4)(a), or a later date is specified in a published notice under Article 142I as the vesting date for excess rights in respect of all eligible deposits or a description of eligible deposits –
- (a) those excess rights are vested in the Authority –

- (i) on the date specified in the written agreement or contract, or
 - (ii) on the later date specified in the published notice under Article 142I;
 - (b) the eligible depositor must provide any assistance the Authority may require to enable the Authority to exercise the excess rights vested in the Authority; and
 - (c) the eligible depositor must promptly notify the Authority of any amount the eligible depositor receives on or after the relevant date in respect of those excess rights, and pay that amount to the Authority as soon as is practicable.
- (6) The Authority must pay into the depositors' compensation fund for the bank in default –
- (a) any amount paid to it under an excess right vested in it under this Article; and
 - (b) any amount paid to it under paragraph (5)(c).

142ZI Assignment of rights to Authority: general

- (1) If a right to an amount is vested in the Authority under Article 142ZG or 142ZH, the Authority may, by serving a notice under paragraph (2), assign the right to that amount (subject to Article 142W(5) to (7)), in whole or in part –
- (a) to the eligible depositor from whom it was assigned to the Authority; or
 - (b) to another person, if the Authority is satisfied that the assignment, or any arrangements made by the Authority in connection with the assignment, will assist the Authority to –
 - (i) comply with its duties under Articles 142N, 142X and 142W,
 - (ii) counteract any prejudice (within the meaning of Article 142ZL(4)) likely to be caused to the Scheme by the operation of a foreign law, or
 - (iii) achieve, in any other respect, an effect closer to the effect of the order of priority under Article 30.
- (2) In respect of the assignment of a right under paragraph (1) –
- (a) it is irrelevant whether the Authority serves the notice before, on or after paying depositors' compensation;
 - (b) the notice must specify –
 - (i) the right assigned, and
 - (ii) the date (being a date after the notice is served and before the completion of the depositors' compensation exercise) on which the right is to vest in the person to whom it is assigned ("the assignee");
 - (c) the Authority may serve the notice –
 - (i) in respect of a particular eligible deposit, by giving the notice to –
 - (A) the eligible depositor who held the right before it vested in the Authority,
 - (B) the assignee, and

- (C) the responsible person for the bank in default, or
 - (ii) in respect of all eligible deposits, or of a description of eligible deposits, or of a particular eligible deposit, by –
 - (A) publishing the notice, and
 - (B) giving it to the responsible person for the bank in default; and
 - (d) the notice may include –
 - (i) provision as to –
 - (A) subordination of all or part of the right assigned to all or part of any rights retained by the Authority, or
 - (B) subordination of all or part of any rights retained by the Authority to all or part of the right assigned, and
 - (ii) provision that that subordination is to have effect as if effected –
 - (A) by contract,
 - (B) by variation of the order of priority under an enactment, or
 - (C) in any other manner; and
 - (e) the right assigned –
 - (i) vests in the assignee on the date specified in the notice, and
 - (ii) is subject to any subordination applied by the notice.
- (3) A notice under paragraph (2), if published under paragraph (2)(c)(ii), may specify either or both of –
 - (a) a description of a class of persons who are the assignees, instead of specifying the assignees; and
 - (b) a formula or other means for calculating or otherwise ascertaining the right assigned to each assignee, instead of specifying the right assigned to each assignee.
- (4) For as long as a right remains vested in the Authority under Article 142ZG or 142ZH, that right is to be treated (despite any contrary provision of an enactment, contract, rule of customary law or a foreign law) as if it were not subject to a right of another person, if under Article 142T(2) no account is to be taken of that right in calculating the maximum amount of depositors' compensation.
- (5) If an eligible depositor fails to comply with an obligation imposed by Article 142ZG or 142ZH, or an obligation arising from a written agreement entered into under Article 142ZG(4)(a) or 142ZH(4)(a)(i), the Authority –
 - (a) may enforce the obligation –
 - (i) in respect of payment of money, as a civil debt, and
 - (ii) in any other respect, by application to the Court for an injunction requiring compliance with the obligation; and
 - (b) may postpone payment of an amount to the eligible depositor (whether the payment is an amount of depositors' compensation or another amount) until the eligible depositor complies with the obligation.
- (6) The assistance that the Authority may require under Articles 142ZG(2)(a), 142ZG(5)(a) and 142ZH(5)(b) includes the taking of any step that the Authority considers would assist in achieving –

- (a) an assignment of a relevant right that has effect under a foreign law and is assigned in accordance with any formalities required by the foreign law, including any formalities for an assignment that does not have effect by operation of a statute;
 - (b) an assignment of a relevant right the effect of which is recognised under a foreign law even if the effect of Article 142ZG or 142ZH is not recognised under the foreign law;
 - (c) recognition under a foreign law of the effect of any of the following –
 - (i) Article 142ZG,
 - (ii) Article 142ZH,
 - (iii) this Article,
 - (iv) the order of priority under Article 30; or
 - (d) any other effect under a foreign law that is equivalent to the effect of a provision mentioned in sub-paragraph (c).
- (7) The steps that the Authority may require the eligible depositor to take include entering into a contract (under the law of Jersey or a foreign law) that contains provisions the Authority considers would assist in achieving a result described in any sub-paragraph of paragraph (6).
- (8) Nothing in a contract entered into, or other instrument produced, for the purpose of paragraph (6) is to be read as –
- (a) an admission by the Authority that a right has not vested in the Authority under this Law; or
 - (b) preventing or limiting the vesting of a right in the Authority under this Law.

142ZJ Assignment of rights to Authority: Authority as creditor

- (1) This Article applies if an eligible depositor's rights in respect of an eligible deposit with a bank in default have been vested in the Authority.
- (2) The Authority may –
 - (a) participate in the nomination of a person to sit on a creditors' committee or committee of inspection for the bank in default;
 - (b) require that a notice addressed to creditors of the bank is sent to the Authority; and
 - (c) nominate a person to attend and vote at a creditors' meeting.
- (3) For the purpose of paragraph (2), the Authority is taken to be a creditor of the bank in default –
 - (a) with the equivalent priority of an eligible depositor with the bank; and
 - (b) to the total value of the eligible depositors' rights that have been vested in the Authority.
- (4) This Article does not affect –
 - (a) any other right of the Authority that arises under the Scheme as a result of an eligible depositor's rights being vested in the Authority; or
 - (b) the manner in which the Authority is to be treated as a result of an eligible depositor's rights being vested in the Authority.

DIVISION 9 – FOREIGN BANKS AND FOREIGN LAW

142ZK Duties of bank liquidator for foreign bank

- (1) This Article applies if a foreign bank that is bankrupt has been declared to be in default under Article 142I.
- (2) The bank liquidator must work with the Authority to ensure that all depositors' compensation is paid out as soon as is reasonably practicable.
- (3) The bank liquidator must comply with every reasonable requirement of the Authority to provide assistance in relation to the Bank Depositors Compensation Scheme.

142ZL Conditions related to foreign law

- (1) The Authority may impose a condition on a payment of depositors' compensation if it appears to the Authority, in respect of a relevant right (within the meaning given in Article 142ZF(1)) of an eligible depositor, that the condition is likely to be proportionate and effective in assisting in –
 - (a) achieving recognition under a foreign law of the effect on the eligible depositor's right of the operation under Jersey law of a priority provision;
 - (b) achieving under a foreign law an effect equivalent to the effect on the eligible depositor's right of the operation under Jersey law of a priority provision; or
 - (c) counteracting, in another way, any prejudice that would otherwise be likely to be caused to the Scheme by the operation of a foreign law in relation to the eligible depositor's right.
- (2) The conditions that may be imposed under paragraph (1) include –
 - (a) a condition that the eligible depositor must take a step, in relation to the foreign law, appearing to the Authority to be expedient under the foreign law to achieve recognition under the foreign law that a right of the eligible depositor –
 - (i) has been assigned to the Authority, or
 - (ii) has been given a priority, in bankruptcy or otherwise, that would not otherwise be given under the foreign law;
 - (b) a condition that an eligible depositor must take any other step specified by the Authority before depositors' compensation is paid; and
 - (c) a condition that relates to a right of the eligible depositor, whether or not that right has already vested in the Authority under Article 142ZG or 142ZH, or in another way.
- (3) In this Article, "priority provision" means any or all of the provisions of –
 - (a) Article 30;
 - (b) Articles 142ZG to 142ZJ;
 - (c) Article 142N;
 - (d) Article 142W; and

- (e) an enactment specified by the Minister by Order for the purpose of this Article.
- (4) For the purpose of this Article, the operation of a foreign law is likely to cause prejudice to the Bank Depositors Compensation Scheme if there is a risk that the effect of the foreign law is –
- (a) to increase or decrease the amount that an eligible depositor will receive by way of depositors' compensation taken together with –
 - (i) any equivalent of depositors' compensation under the foreign law, and
 - (ii) any other payments in respect of the eligible deposit to which the depositors' compensation relates;
 - (b) to prevent, delay or reduce the recovery by the Authority of amounts due to it by virtue of rights assigned to it under Article 142ZG or 142ZH (whether because of the application of rules of set-off under a foreign law, or because of delay in or refusal of recognition of assignment under Article 142ZG or 142ZH or recognition of the order of priority under Article 30, or for any other reason);
 - (c) to delay the provision of any information required by the Authority; or
 - (d) otherwise to reduce the chance that a person will comply with this Law in respect of the default, or that a function will be performed effectively by or on behalf of the Authority.
- (5) For the purpose of paragraph (4), the effect of a foreign law may arise in any manner, including –
- (a) because the bank in default –
 - (i) has a branch in Jersey but is established in another jurisdiction under the foreign law,
 - (ii) is a subsidiary company (within the meaning of the 1991 Law) of a holding company (within the meaning of that Law) that is established in another jurisdiction under the foreign law, or
 - (iii) has assets held in another jurisdiction under the foreign law that, in the opinion of the Authority, are relevant to the amount that may be recovered under rights assigned to the Authority, or are otherwise relevant to the operation of the Bank Depositors Compensation Scheme;
 - (b) because a contract relating to an eligible deposit with the bank in default states that that contract is governed by that foreign law, or the proper law of the contract is for any other reason that foreign law; and
 - (c) because there is a difference or a perceived difference between the law of Jersey and the foreign law that may cause prejudice to the operation of the Bank Depositors Compensation Scheme in another way.
- (6) Without limiting any other means by which the Authority may enforce compliance with a condition imposed under this Article, the Authority may –
- (a) postpone payment of depositors' compensation until the condition is met; and
 - (b) refuse to pay the depositors' compensation if the condition is not met, or if the Authority is satisfied that the condition will not be met, before the expiry of the time allowed for payment by Article 142P(8).

DIVISION 10 – POWERS TO OBTAIN INFORMATION

142ZM General duty of Authority in relation to information

The Authority must exercise its functions under this Part with a view in particular to –

- (a) obtaining directly from banks information that –
 - (i) is timely, accurate and comprehensive, and
 - (ii) is necessary for the Authority to carry out its functions under this Law; and
- (b) sharing, with persons in Jersey or elsewhere, information that –
 - (i) is timely, accurate and comprehensive, and
 - (ii) enables those persons to carry out functions that they have in relation to a bank in default, the Bank Depositors Compensation Scheme or an overseas compensation scheme.

142ZN Annual holdings returns from banks

- (1) Each bank that holds an eligible deposit at the end of a calendar year must send to the Authority an annual holdings return, to be received by the Authority within 28 days after the end of that calendar year.
- (2) An annual holdings return must contain the following statements –
 - (a) a statement of the bank's relevant holding as at the end of the calendar year;
 - (b) a statement of the total amount held by the bank as at the end of the calendar year by way of deposits, including both eligible deposits and other deposits;
 - (c) a statement of the total amount held by the bank as at the end of the calendar year by way of amounts of eligible deposits that do not exceed £50,000;
 - (d) a statement of the number of eligible depositors, as at the end of the calendar year, in respect of whom the bank holds eligible deposits; and
 - (e) a statement of the total assets of the bank as at the end of the calendar year.
- (3) If a bank's relevant holding, as at any time during the calendar year following the year to which the bank's last return relates, is at least 10% less than the amount stated in that return, the bank may send to the Authority a further return containing a statement of the lesser relevant holding.
- (4) A return sent under paragraph (1) or (3) –
 - (a) must be in a form specified by the Authority in a published notice as the appropriate form for that return or description of return;
 - (b) must be accompanied by any additional information specified in the published notice; and
 - (c) may be sent to the Authority through a third party, if the published notice so provides.

- (5) The Minister may, by Order, amend paragraph (2) or (4) to make alternative provision as to the contents, form or sending of a return.
- (6) This Article applies to every calendar year whether or not, in that year, a bank is in default.
- (7) A bank that fails, without reasonable cause, to comply with paragraph (1) is guilty of an offence and is liable to a fine.
- (8) This Article applies to Community Savings Ltd as it applies to a bank.
- (9) For the purpose of paragraph (8) –
 - “eligible deposit” means an amount that a natural person has in an account with Community Savings Ltd as at the end of the calendar year;
 - “relevant holding” means the total of the amounts that each natural person had in an account with Community Savings Ltd as at the end of the calendar year.

142ZO Information notice may be served at any time

- (1) The Authority may at any time serve a notice on a bank (“information notice”) requiring the bank to provide to the Authority, within a time specified in the notice, either or both of the following –
 - (a) a statement of the bank’s relevant holding, as at a time specified in the notice;
 - (b) any other information specified in the notice in relation to –
 - (i) eligible deposits held by the bank, and
 - (ii) the raising of a levy or any other matter connected with the functions of the Authority under this Part or connected with the operation of the Scheme.
- (2) The Authority may, after consulting the Minister, include in an information notice a requirement that the information is to be provided in a specified format.
- (3) For the purpose of paragraph (2) –
 - (a) different formats may be specified in respect of different descriptions of banks and different descriptions of information;
 - (b) a format may be specified by reference to a general notice published by the Authority in a manner that, in the opinion of the Authority, is likely to bring the notice to the attention of banks; and
 - (c) the specified format may include a description of electronic record, as defined by the [Electronic Communications \(Jersey\) Law 2000](#), and a description of electronic communication, as defined by that Law.
- (4) Nothing in paragraph (3)(b) or (c) limits anything in paragraph (1) or (2).
- (5) If an information notice includes a requirement to provide information under paragraph (1)(a), the Authority may, after consulting the Minister, specify in the notice that the information is to be provided without delay.
- (6) A person commits an offence, and is liable to a fine, if the person –
 - (a) fails without reasonable excuse to comply with a requirement imposed on the person under this Article; or
 - (b) obstructs the Authority in exercising its powers under this Article.

- (7) This Article applies to Community Savings Ltd as it applies to a bank.
- (8) For the purpose of paragraph (7) –
 - “eligible deposit” means an amount that a natural person has in an account with Community Savings Ltd as at the time specified in the notice;
 - “relevant holding” means the total of the amounts that each natural person had in an account with Community Savings Ltd as at the time specified in the notice.

142ZP Encryption of information obtained under Article 142ZO

- (1) Paragraph (2) applies to information (including any document or answer) obtained by the Authority under Article 142ZO that –
 - (a) has not already been obtained under Article 142K, or is not obtained for the purpose of paying depositors’ compensation or verifying a claim for depositors’ compensation; and
 - (b) consists of or includes personal data, within the meaning of the [Data Protection \(Jersey\) Law 2018](#), relating to a person as a depositor of a bank other than a bank in default.
- (2) The Authority must –
 - (a) as soon as is practicable after obtaining the information, encrypt it if it is not already encrypted; and
 - (b) ensure that it is encrypted while it is held by or on behalf of the Authority except when it is in use for a purpose that requires it to be temporarily decrypted.
- (3) For the purposes of the [Data Protection \(Jersey\) Law 2018](#) and the [Data Protection Authority \(Jersey\) Law 2018](#), a contravention of paragraph (2) is to be treated as also being a contravention of Articles 8(1) and 21(1) of the [Data Protection \(Jersey\) Law 2018](#).
- (4) Paragraphs (2) and (3) are in addition to, and are not to be read as derogating from, any duty imposed on the Authority by or under the [Data Protection \(Jersey\) Law 2018](#) (and in particular by Article 8(1)(f), or Article 21(1) as read with Article 21(2)(a), of that Law) or by any other law.”.

34 Article 155 (disclosure for facilitating discharge of functions of the Authority and specified persons) amended

In Article 155, after paragraph (1) there is inserted –

- “(1A) Article 154 does not preclude the disclosure of information by the Authority to –
 - (a) the responsible person for a bank in default, if the information concerns the bank; or
 - (b) any person for the purpose of obtaining advice on the performance by the Authority of its functions.”.

35 Article 157 (other permitted disclosures) amended

In Article 157(4), for “a compensation scheme in relation to 1 or more deposit-taking businesses (whether in Jersey or in a country or territory outside Jersey)” there is substituted “an overseas depositors’ compensation scheme”.

36 Article 165 (service of notices) amended

In Article 165, in paragraph (2), for “these Regulations” there is substituted “this Law”.

37 Article 166 (false or misleading information) amended

In Article 166, after paragraph (2) there is inserted –

- “(3) A person commits an offence if, after applying to the Authority for depositors’ compensation, the person knowingly fails to inform the Authority of any subsequent event that reduces the amount of depositors’ compensation that may be claimed.
- (4) A person who commits an offence under paragraph (3) is liable to imprisonment for a term of 2 years and to a fine.”.

38 Article 167 (criminal liability of partners, directors and other officers) amended

(1) After Article 167(1) there is inserted –

“(1A) Where an offence mentioned in paragraph (1) is an offence that may be committed by neglect, and the commission of the offence is proved to be attributable to neglect on the part of a person mentioned in paragraph (1), that person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.”.

(2) In Article 167(2), for “paragraph (1) applies” there is substituted “paragraphs (1) and (1A) apply”.

39 Article 168 (appeal) amended

(1) For the heading to Article 168, there is substituted “Appeals relating to recovery and resolution”.

(2) Before Article 168(1) there is inserted –

“(A1) This Article applies to decisions relating to recovery and resolution.”.

40 Article 168A (appeals relating to default) inserted**“168A Appeals relating to default**

- (1) A person who is dissatisfied with a decision of the Authority mentioned in paragraph (2) may appeal to the Court against the decision on the ground that, on the facts available to the Authority, the decision was unreasonable.
- (2) The decisions of the Authority are –
 - (a) a decision that the person is not entitled to depositors’ compensation;

- (b) a decision as to the amount of depositors' compensation the person is entitled to; or
 - (c) a decision not to exercise its power under Article 142R(3)(b) to accept the person's late application for depositors' compensation,
- (3) A bank that is dissatisfied with a decision of the Authority requiring the bank to pay a depositors' compensation levy may appeal to the Court against the decision on the grounds that –
- (a) the bank is not liable to pay the levy;
 - (b) the Authority has miscalculated the amount of levy, or the amount of an instalment of the levy, that the bank is required to pay; or
 - (c) the Authority has miscalculated the date on which the levy, or an instalment of the levy, becomes payable.
- (4) Unless the Court otherwise directs, an appeal by a bank under paragraph (3) does not suspend the operation of a notice sent to the bank under Article 142Z.
- (5) On an appeal under this Article, the Court may make any order it considers appropriate.
- (6) A reference in this Article to a miscalculation includes a decision to treat costs as recurring administrative costs for the purpose of Article 16(1)(a) or as default-related administrative costs, if that decision is unreasonable having regard to all the circumstances.
- (7) A person who is dissatisfied with a decision that is made on behalf of the Authority may not appeal to the Court under this Article until –
- (a) the person has requested, in writing, the Authority to review the decision; and
 - (b) the Authority has reviewed the decision, or 6 weeks have elapsed since the request was made, whichever is the sooner.
- (8) Nothing in this Article is to be read as limiting the Authority's power to reconsider its own decisions.
- (9) A person may not make an appeal under this Article later than 1 year after the date on which the person became aware of the decision appealed against (whether or not paragraph (7) applies).".

41 Article 172 (regulations) amended

- (1) In Article 172(b), for "Part 5 or 6" there is substituted "Part 5, 6 or 7A".
- (2) In Article 172(d), after "supplementary" there is inserted ", savings".

42 Article 178 (citation and commencement) amended

In Article 178, for "and Resolution" there is substituted ", Resolution and Depositors Compensation".

43 Schedule 1 (appointment of members and procedures at meetings of the Authority) amended

In paragraph 1 (terms of appointment of members), for sub-paragraphs (2) and (3) there is substituted –

- “(2) A member –
- (a) must be appointed by instrument in writing for a period of not more than 5 years; and
 - (b) is eligible for re-appointment at the end of that period.
- (3) The States may extend the period of appointment or re-appoint the member only if the total period of appointment is not more than 9 years.”.

44 Schedule 2, Part 2 (contents of a resolution plan) amended

In Schedule 2, Part 2, in paragraph (1)(i)(i), for “Fund” there is substituted “Resolution Fund”.

PART 2

MISCELLANEOUS AND FINAL PROVISIONS

45 Amendment of the [Income Tax \(Jersey\) Law 1961](#)

- (1) This Article amends the [Income Tax \(Jersey\) Law 1961](#).
- (2) In Article 3(1) (general provisions as to interpretation) –
- (a) after the definitions “connected” and “unconnected” there is inserted –

“ “depositors’ compensation levy” means a levy paid by a bank to the Jersey Resolution and Depositors Compensation Authority in respect of a bank declared to be in default under Part 7A of the Bank (Recovery, Resolution and Depositors Compensation) (Jersey) Law 2017;”;
 - (b) after the definition “international activities” there is inserted –

“ “Jersey Resolution and Depositors Compensation Authority” means the Authority mentioned in Article 4 of the Bank (Recovery, Resolution and Depositors Compensation) (Jersey) Law 2017;”.
- (3) For Article 62C there is substituted –

“62C Application of Schedule D to the repayment of depositors compensation levy

Tax must be charged under Schedule D in respect of the repayment or partial repayment to a bank of depositors’ compensation levy as if the repayment or partial repayment were a trading receipt of the bank in the year in which the repayment or partial repayment is made.”.

- (4) For Article 70B there is substituted –

“70B Deduction on account of depositors compensation levy

Despite Article 70, in computing the profits or gains to be charged in respect of a trade or profession under Schedule D a bank may deduct as expenses in any year an amount equal to any depositors’ compensation levy paid by the bank to the Jersey Resolution and Depositors Compensation Authority in that year.”.

- (5) For Article 115(p) and (q) (miscellaneous exemptions) there is substituted –
- “(p) income derived by the Jersey Resolution and Depositors Compensation Authority in the exercise of its functions relating to the Bank Depositors Compensation Scheme established by the [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#) and continued under Part 7A of the Bank (Recovery, Resolution and Depositors Compensation) (Jersey) Law 2017;
 - (q) depositors’ compensation paid to an eligible depositor under Part 7A of the Bank (Recovery, Resolution and Depositors Compensation) (Jersey) Law 2017;”.

46 Article 37 of the Banking Business (Jersey) Law 1991 deleted

Article 37 (compensation schemes) of the Banking Business (Jersey) Law 1991 is deleted on the date specified by Order of the Minister for External Relations under Article 51 of that Law as the date on which Regulation 14 of the [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#) ceases to be in force.

47 Amendment of the [Bankruptcy \(Netting, Contractual Subordination and Non-Petition Provisions\) \(Jersey\) Law 2005](#)

In the [Bankruptcy \(Netting, Contractual Subordination and Non-Petition Provisions\) \(Jersey\) Law 2005](#), after Article 6 (Law to prevail in respect of bodies corporate established outside Jersey) there is inserted –

“6A Bank Depositors Compensation Scheme

- (1) The application of this Law in respect of bank deposits to which the Bank Depositors Compensation Scheme relates is subject to any provision of or under the Bank (Recovery, Resolution and Depositors Compensation) (Jersey) Law 2017.
- (2) In this Article, “Bank Depositors Compensation Scheme” means the scheme for payment of depositors’ compensation established by Part 3 of the [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#) and continued under Part 7A of the Bank (Recovery, Resolution and Depositors Compensation) (Jersey) Law 2017.”.

48 Amendment of the [Data Protection \(Jersey\) Law 2018](#)

- (1) This Article amends the [Data Protection \(Jersey\) Law 2018](#).
- (2) For Article 48(5)(b) there is substituted –
 - “(b) any function conferred on the Jersey Resolution and Depositors Compensation Authority under Article 7 of the Bank (Recovery, Resolution and Depositors Compensation) (Jersey) Law 2017;”.
- (3) In Schedule 3 (exceptions to adequacy requirements), after paragraph 5 there is inserted –

“5A Transfer by or on behalf of the Jersey Resolution and Depositors Compensation Authority

- (1) The transfer is necessary for reasons of substantial public interest, which will be the case if all the following circumstances apply –
 - (a) the transfer is a disclosure that is permitted or required under an enactment in force in Jersey;
 - (b) the transfer is made by or on behalf of the Jersey Resolution and Depositors Compensation Authority (“the Authority”); and
 - (c) the Authority has taken reasonable steps to ensure that the transferee will not transfer the personal data to another person except –
 - (i) with the consent of the Authority, or
 - (ii) in order to comply with an order of a court (whether or not a Jersey court) that directs the transferee to transfer the personal data to the other person.
- (2) In this paragraph, “Jersey Resolution and Depositors Compensation Authority” means the Authority mentioned in Article 4 of the Bank (Recovery, Resolution and Depositors Compensation) (Jersey) Law 2017.”.

49 Amendment of the [Public Finances \(Jersey\) Law 2019](#)

For Article 59(4) (expenditures carried forward) of the [Public Finances \(Jersey\) Law 2019](#) there is substituted –

- “(4) The authority to transfer up to £100 million from the Strategic Reserve Fund to the Jersey Resolution and Depositors Compensation Authority (the successor to the Jersey Bank Depositors Compensation Board) for the administration of the Bank Depositors Compensation Scheme or to meet any temporary cash flow funding requirements of that Scheme, as set out in Proposition 84/2009 (lodged on 2 June 2009 and adopted by the States on 6 November 2009), is continued.
- (4A) In this Article –
- “Jersey Bank Depositors Compensation Board” means the Board established by the [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#) for the purpose of administering the Bank Depositors Compensation Scheme;
- “Jersey Resolution and Depositors Compensation Authority” means the Authority mentioned in Article 4 of the Bank (Recovery, Resolution and Depositors Compensation) (Jersey) Law 2017;
- “Bank Depositors Compensation Scheme” means the scheme for payment of depositors’ compensation established by Part 3 of the [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#) and continued under Part 7A of the Bank (Recovery, Resolution and Depositors Compensation) (Jersey) Law 2017.”.

50 Amendment of the Revenue Administration (Information Sharing) (Jersey) Order 2024

In Schedule 1 to the Revenue Administration (Information Sharing) (Jersey) Order 2024, for the entry relating to the Jersey Resolution Authority there is substituted –

Jersey Resolution and Depositors Compensation Authority	Enabling or assisting the Jersey Resolution and Depositors Compensation Authority to exercise functions under the Bank (Recovery, Resolution and Depositors Compensation) (Jersey) Law 2017
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51 Repeal of the [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#)

- (1) The [Banking Business \(Depositors Compensation\) \(Jersey\) Regulations 2009](#) are repealed, subject to the following.
- (2) Regulation 1 remains in force (so far as necessary for the purpose of Regulations 8 to 14) until the date on which Regulation 14 ceases to be in force.
- (3) Regulations 8 to 13 remain in force until the date on which Regulation 14 ceases to be in force, for the purpose of enabling the Jersey Bank Depositors Compensation Board established by Regulation 8(1) to fulfil its functions under Regulations 8A and 14.
- (4) Regulation 14 remains in force until a date specified by Order of the Minister for External Relations under Article 51 of the Banking Business (Jersey) Law 1991.
- (5) For Regulation 8A there is substituted –

“8AA Continuation of the Board

The Board continues in existence until the date specified by Order of the Minister for External Relations under Article 51 of the Banking Business (Jersey) Law 1991 as the date on which Regulation 14 ceases to be in force, for the purpose of enabling the Board to fulfil its functions under Regulations 8A and 14.

8A Continuing functions of the Board

- (1) For the period that the Board continues in existence, the function of the Board is to exercise its functions under Regulation 14 in relation to the final reporting period.
- (2) In the exercise of those functions, the Board must ensure that –
 - (a) the Board is administered in a prudent and economical manner; and
 - (b) the resources of the Board are used efficiently and effectively.
- (3) The Board may do anything reasonably necessary or expedient for or incidental to those functions, and may in particular, in the exercise of those functions, appoint an employee, agent or contractor to assist it in exercising those functions.”.
- (6) In Regulation 14 (accounts and report) –

- (a) in paragraphs (1), (2)(a) and (b), (3) and (5)(a), for “a financial year” there is substituted “the final reporting period”;
- (b) after paragraph (10) there is inserted –
 - “(11) In this Regulation, “final reporting period” means the period beginning on 1 January 2025 and ending on a date specified by Order of the Minister for External Relations under Article 51 of the Banking Business (Jersey) Law 1991.”.

52 Citation and commencement

This Law may be cited as the Bank (Recovery and Resolution) (Jersey) Amendment Law 202- and comes into force on a date specified by Order of the Minister.