

CAYMAN ISLANDS



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**THE COMPANIES (AMENDMENT) (PROTECTION OF DEPOSITORS)  
LAW, 1997**

**(LAW 26 OF 1997)**



CAYMAN ISLANDS

Law 26 of 1997.

I Assent

JOHN OWEN

Governor.

18 February, 1998.

**A LAW TO AMEND THE COMPANIES LAW (1995 REVISION); TO PROVIDE FOR PRECEDENCE IN PRIORITY TO BE GIVEN TO CERTAIN CLASSES OF DEPOSITORS IN THE WINDING UP OF A BANK; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Companies (Amendment) (Protection of Depositors) Law, 1997. Short title
  
2. Section 161 of the Companies Law (1995 Revision) (in this Law referred to as "the principal Law") is amended in subsection (1) by inserting after paragraph (c) the following paragraph-  
  - “(d) money due to depositors who have deposits with a company which is being wound up, and which-
    - (i) is incorporated in the Islands; and
    - (ii) is the holder of an “A” licence issued under the Banks and Trust Companies Law (1995 Revision),subject to the conditions, provisions and limits contained in Schedule 2.”. Amendment of section 161 - preferential payments  
  - 1995 Revision
  
3. The principal Law is amended by inserting, after the Schedule, the following Schedule- Amendment of principal Law-insertion of Schedule 2

**“SCHEDULE 2**

**Conditions, Provisions and Limits Subject to which Bank Depositors  
are Preferential Creditors in a Winding Up.**

**Eligibility for Precedence**

1. The following shall not be eligible for the precedence in priority granted by section 161-

- (a) The amount of a deposit, the ownership of which becomes held, or comes to be treated as held (except in the case of the death of the owner of the deposit), by a person after the presentation of the petition for the winding up of the bank or the commencement of the voluntary winding up of the bank; and
- (b) a deposit in the name of-
  - (i) a person licensed under section 5(1) of the Banks and Trust Companies Law (1995 Revision);
  - (ii) a person authorised, licensed or recognised as a bank or deposit holder in a country or territory outside the Islands;
  - (iii) a person who, in the opinion of the Court, has any responsibility for, or may have profited, or may profit, directly or indirectly from the winding up;
  - (iv) a person who was, at the date of presentation of the petition for the winding up of the bank or the commencement of the voluntary winding up of the bank, a director, controller or manager of the bank or who, in the opinion of the court exercised such functions;
  - (v) a person who is the legal or beneficial owner of 5 per cent or more of the shares of all classes issued by the bank; or
  - (vi) a company or corporation, whether or not incorporated in the Islands, which is, at the date of the presentation of the petition for the winding up of the bank or the commencement of the voluntary winding up of the bank, a parent, subsidiary or fellow subsidiary of the bank, or which is in common ownership with the bank.

1995 Revision

**Deposit limit**

2. (1) The precedence in priority granted by section 161 shall be limited to the first \$20,000 of each eligible deposit, and if the deposit is in a currency other than Cayman Islands dollars, it shall be converted into Cayman Islands dollars for the purpose of calculating the amount eligible for precedence in priority by reference to the rate determined for the purpose by the Cayman Islands Monetary Authority.

(2) In determining the amount of each eligible deposit to receive precedence in priority-

- (a) separate deposits in the same legal or beneficial ownership shall be aggregated and treated as one deposit;
- (b) the ownership of a deposit in joint names shall be deemed to be divided equally between the joint depositors;
- (c) the ownership of a deposit in the name of a partnership shall be deemed to be divided equally among the partners;
- (d) a deposit which is a client account, and which is designated as such, shall be treated as separate deposits, made by the clients of the depositor, of amounts corresponding to the amount to which each client is entitled; and
- (e) the amount of each eligible deposit shall be reduced by the amount of any liability of the depositor to the bank in respect of which a right of set-off existed at the date of the presentation of the petition for the winding up of the bank, or the commencement of the voluntary winding up of the bank.”.

Passed by the Legislative Assembly the 15th day of December, 1997.

Mabry S Kirkconnell

Speaker.

Georgette Myrie

Clerk of the Legislative Assembly.