

**THIRD SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

No. 3,713 of 21st May, 2009

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**B. 16/09**

**BILL**

**FOR**

**AN ACT** to transpose into the law of Gibraltar Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009 amending Directive 94/19/EC on deposit-guarantee schemes as regards the coverage level and the payout delay, and matters connected thereto.

**ENACTED** by the Legislature of Gibraltar.

**Title and commencement.**

1.(1) This Act may be cited as the Deposit Guarantee Scheme (Amendment) Act 2009.

(2) This Act comes into operation on 30 June 2009, save for section 2(7)(b) which comes into force on such date as the Minister may appoint by notice in the Gazette.

**Amendment of the Deposit Guarantee Scheme Act, 1997.**

2.(1) The Deposit Guarantee Scheme Act, 1997 is amended in accordance with the provisions of this section.

(2) Section 2 is amended by substituting for paragraph (c) in the definition of the “Qualifying deposit”, the following—

“(c) not deposited arising out of transactions in connection with which there has been a conviction under the Crime (Money Laundering and Proceeds) Act 2007 or other legislation in Gibraltar or in another country prohibiting money-laundering

within the meaning of Article 1 of Directive 91/308/EEC; and”.

(3) Section 4 is amended by inserting after subsection (3) the following subsections—

“(3A) The Board shall take steps to cooperate with its counterparts in other EEA States in the operation of subsection (3).

(3B) The Board shall keep the Minister informed of all requests for cooperation to or by the Board.

(3C) The Minister may make Regulations to make provision for cooperation by the Board under subsection (3A).”.

(4) Section 10(2) is amended by substituting for “21 days”, “5 working days”.

(5) Section 11(2) is amended as follows—

(a) for “within three months” there is substituted “within 20 working days”;

(b) for the second reference to “Commissioner of Banking” there is substituted “Minister”;

(c) for “up to three months; and up to two further periods of up to three months after that”, there is substituted “up to 10 working days”.

(6) Section 11 is amended by inserting the following after subsection (3)—

“(4) The Board shall perform regular tests of the systems governing the deposit guarantee scheme established under this Act and shall provide its report thereof to the Minister within 14 days.

(5) The Commissioner for Banking shall inform the Minister and the Board in the event that he detects a problem in a credit institution that is likely to give rise to the intervention of a deposit-guarantee scheme.”.

(7) Section 12 is amended as follows—

(a) for “ECU”, there is substituted “Eur”, in all instances where that word appears;

(b) for subsection (2) there is substituted the following—

“(2) Subject to section 13, the total amount of compensation to any claimant in respect of all qualifying deposits with that institution shall be limited to the amount of Eur 50,000 (or the sterling equivalent, as calculated under subsection (6) on the date of declaration of default under section 10(1)).”;

(c) after subsection (2) insert the following—

“(2A) The Minister may, by legal notice in the Gazette increase or (subject to the minimum amounts specified by the Directive) decrease the sum stipulated in subsection (2) above or the scope of coverage for deposits.

(2B) The Minister shall ensure that the European Commission and the European Banking Committee are informed where he intends to change the scope or level of coverage under subsection (2) and where any difficulties are encountered by the Board when cooperating with other Member States.”;

(d) subsection (10) is amended by substituting for “(or legislation in another country prohibiting money-laundering within the meaning of Article 1 of Directive 91/308/EEC)” the words “or other legislation in Gibraltar or in another country prohibiting money-laundering within the meaning of Article 1 of Directive 91/308/EEC”.

(8) Section 15(1) is amended by substituting for “, in accordance with this section,” the words “forthwith inform the Minister and, in accordance with this section and with the consent of the Minister,”.

(9) Section 24 is amended by inserting the following after subsection (2)—

“(2A) When a deposit is not guaranteed by a deposit-guarantee scheme, a credit institution shall inform depositors accordingly.”.

(10) Section 26 is deleted.

(11) Section 27 is amended by inserting after the words “shall notify”, the words “the Minister, who shall notify”.

(12) For paragraph 1(2) of Schedule 2, there is substituted the following—

“(2) For the purposes of a report under sub-paragraph (1), the potential compensation is the aggregate of all qualifying deposits in an EEA currency where the balance of those deposits is the total amount of compensation payable under section 12 or less.”.

**EXPLANATORY MEMORANDUM**

This Bill amends the Deposit Guarantee Scheme Act, 1997 so as to transpose into the law of Gibraltar Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009 amending Directive 94/19/EC on deposit-guarantee schemes as regards the coverage level and the payout delay.

The principal aim of the Directive is to increase the compensation thresholds to EUR 50,000 for the aggregate of qualifying deposits with an institution (and later EUR 100,000) and to reduce the time limit for payouts to 20 working days.

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