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## Reform of Guernsey's Corporate Insolvency Laws

As has been widely reported, the Commerce and Employment Department undertook a review of Guernsey's insolvency laws, both personal and corporate, with significant input from key stakeholders. The Department has now published its proposals and outlined both those areas which will be reformed and projects the Department has decided not to take forward.

In respect of reform of Guernsey's corporate insolvency laws, the Department has decided against introducing a single insolvency law and instead to amend the Companies (Guernsey) Law, 2008 to facilitate the following key changes:

- The introduction of Insolvency Rules;
- A requirement that liquidators be independent in an insolvent voluntary winding up;
- Set out the general objectives of liquidation;
- Allow for greater information gathering powers by insolvency officeholders, including the ability to examine current and former directors;
- Introducing a provision to claw back transactions at undervalue and disclaim onerous assets;
- The introduction of a statutory duty on administrators and liquidators to report to the relevant authorities misconduct on the part of directors and officers of a company;
- The introduction of a process to establish and rank claims in a liquidation; and
- The express power for administrators to make distributions to all creditors where these are in accordance with the objects of the administration.

The Department has decided not to pursue the following projects:

- Permitting out of court administration appointments;
- Providing for a procedure by which the Court may set aside a statutory demand;
- The appointment of a receiver as a pre-insolvency measure to protect assets;
- Reforming Guernsey's Désastre and Saisie laws;
- Introducing a Company Voluntary Arrangement process; and
- Avoidance of charges placed within a certain time period.

The publication of the Department's proposals is a welcome and significant step forward. It represents the culmination of many years hard work and co-operation between the various stakeholders. The proposed changes will enhance Guernsey's corporate insolvency regime whilst maintaining the flexibility to respond to new challenges as they arise. The Department will now submit policy letters to the States for consideration as a pre-cursor to drafting amending legislation.

Should you have any questions or require more information, please do not hesitate to get in touch.



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