

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

28th April, 2021

Proposition No. P.2021/29

Committee for Economic Development

The Companies (Guernsey) Law, 2008 (Miscellaneous Amendments) Ordinance, 2021

AMENDMENT

Proposed by: Deputy N G Moakes

Seconded by: Deputy N R Inder

For clause 27(c) of the draft Ordinance entitled "The Companies (Guernsey) Law, 2008 (Miscellaneous Amendments) Ordinance, 2021" (Article 3 of Billet d'État No. IX of 2021) substitute:

"(c) immediately after subsection (4), insert the following subsection –

"(5) A member whose shares are to be acquired under this section is excluded from exercising the voting rights attaching to those shares when voting on the resolution".

Explanatory note

Clause 27(c) of the Companies (Guernsey) Law, 2008 (Miscellaneous Amendments) Ordinance, 2021 inserts a new subsection (5) into section 314 of the Companies (Guernsey) Law, 2008. This subsection is intended to protect minority shareholders, during a share buy-back, and to align the position in Guernsey with the equivalent procedure in the UK. The Committee for Economic Development consulted the Commercial Bar Association during the drafting of the Companies (Guernsey) Law, 2008 (Miscellaneous Amendments) Ordinance, 2021. However, following submission to HM Greffier and publication of the draft Ordinance, and the Proposition to approve it, a further representation was received regarding clause 27(c) to the effect that, as drafted, it would have an unintended, detrimental, effect on transactions involving listed companies undertaking off-market buy-backs of shares from multiple shareholders at the same time. The proposed amendment will align the position under the Companies (Guernsey) Law, 2008 more closely with the equivalent provision in English Law and with market expectations.