

Judgement and Executions (Civil)
A Bill to create a register
Leave to introduce granted

6.1. The Hon. Member for Douglas North (Mr Houghton) to move:

That leave be given to introduce a Private Member's Bill to create a register of Judgement and Executions (Civil) and to include any other warrant issued by the Treasury to be enforceable in the same manner as an Execution; and for connected purposes.

The Speaker: We turn to Item 6, leave to introduce, and I call the Hon. Member for Douglas North, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

Mr Speaker, the purpose of the motion I am seeking the support of Hon. Members today is in relation to the Private Member's Bill that I previously brought to this Hon. House, which received Royal Assent at the February 2012 sitting of Tynwald, known as the Debt Recovery and Enforcement Act.

The Debt Recovery and Enforcement Act enables licensed debt collectors to pursue debtors who have judgements and executions against them, and when the Act goes live, these debt collectors will also be permitted to pursue and recover warrants issued, *inter alia*, by Departments of Treasury. Such warrants issued by the Treasury are not enforced through the civil process by the High Court.

The Debt Recovery Enforcement Act is reliant upon a Judgements Register, as mentioned in the Act. The responsibility sits with the Chief Registrar by virtue of section 15 of the Administration of Justice Act 1981. Such a register is pivotal to the operation of the Debt Recovery and Enforcement Act due to the requirements of licensed debt collectors and coroners, who must refer to a Judgements Register to obtain necessary information in relation to the pecking order of creditors and also whether certain debtors assets are to be subjected to the Preferential Payments Act 1908.

Unfortunately, it has since come to light that the current Judgements Register does not have the *vires* to contain the amalgamated information required and for public access and to act as the appropriate tool to provide interested parties with all encompassing information required to effect the appropriate distribution of recovered debt.

Mr Speaker, I am therefore seeking leave of this Hon. House to bring a Bill to bridge this impasse. I have had regular meetings with the Chief Registrar and other officials of Treasury, together with valued input from the Government Advocate, and the senior legislator drafter in order to move this forward.

If I receive support of Hon. Members today, I would hope to introduce a Green Bill into this House as soon as possible, as the preparation of a Bill behind the scenes is almost complete and, due to its nature, will not require to be consulted upon before its introduction.

I apologise to those Members who are eagerly awaiting the implementation of the Debt Recovery and Enforcement Act and, at the appropriate time, I may ask the House to suspend Standing Orders in order to accelerate this Bill through its stages, due to its primary purpose of widening and enhancing the functions of a Judgements Register, which already functions under the Administration of Justice Act 1981. This register will be known typically as an official Debtors Register.

Mr Speaker, I would be most grateful to receive the support of Hon. Members today and I beg to move.

The Speaker: Mr Henderson.

Mr Henderson: Gura mie eu, Vainstyr Loayreyder.
I beg to second, sir, and reserve my remarks.

The Speaker: Hon. Member, Mrs Cannell.

Mrs Cannell: Thank you, Mr Speaker.

Can the Hon. Member perhaps explain a little bit more to the House in terms of when he was taking the other legislation through, that he has referred to, to do with the debt collecting, the fact is he is now coming forward with a Bill that has described will be bridging... I think he said, 'bridging the gap'. He gave us the impression that perhaps it is a temporary measure.

Is this now as a consequence of the other Bill perhaps being a little short or lacking – the one that he has already taken through the House? Is it that, through that legislation that has gone through, it has been spotted by someone outside of this House and that in fact it ought to have included this additional information? Or is it that

the consequences of the first legislation, the first Bill that he has referred to that he took through the House, he did not expect there to be a requirement for an open public register that records debtors?

This seems to me that if there is a register already there, it is there for use by somebody. If he can explain who uses it currently and why, therefore, he is wanting to bring a Bill to bridge the gap to make this open and accessible to the general public. Is there a good reason for doing that? Does this follow what happens in other jurisdictions?

If perhaps he could give a little more meat on the bone, it would be appreciated.

Thank you.

The Speaker: I call on the mover to reply.

Mr Houghton: Thank you, Mr Speaker.

Mr Speaker, I thank the Hon. Member for East Douglas for her questions. I do apologise. Most of this was explained quite clearly in the opening statement I made in pursuit of this motion, but I am very happy to clarify.

The Debt Recovery and Enforcement Act, when it was a Bill – and it is mentioned in the Bill that it has bolted on the whole issue to do with the collection of debt – requires this: simply, that once you have a Debtors Register, which sits within the General Registry, and also the additional functions that are allowed for in the Bill, which allows orders issued by certain departments of the Treasury, which do not come under the civil processes as I have mentioned in my opening speech, are all required to be held under one central register.

It was envisaged during my research in the Bill that this would all simply be bolted onto the Judgements Register which is already in law, sitting with the Chief Registrar, and, of course, it is sitting under the *vires* of the Administration of Justice Act 1981, as I have already mentioned.

The fact that now it has come to light that there are two major problems. One is that register has not been properly populated since 1981, so that adds some major issues to do with the ongoing collection of debt, also for the Chief Registrar himself. So this is a tidying-up measure that is more required for Government to know *centrally* where its debts are and the movement and proper administration and control of those debts – whether they are Government debts belonging to the Treasury or civil debts belonging to private people. They all need to encompass under one, and of course the Judgements Register does not have the *vires* to do that. That was certainly not envisaged, because I do regret to say that if it was, I would have provided some enabling functions within my Bill in order to deal with that, which is really what I am going for now.

So this motion today, Mr Speaker, actually is twofold. One is so that once it is brought in – and the secondary legislation, of course, goes before and is approved by Tynwald, brought by the Hon. Treasury Minister in due course – that the Debt Recovery and Enforcement Act can go live because it has integrity attached to a proper central Judgements Register.

And then, of course, the second point, which is just as important, this will cause and enable Government to have a central register that everybody will have access to in the pursuance of debt and those who are actually in debt. Similar legislation, I understand, exists in the United Kingdom which permits the very same thing.

So basically all I wish to do if I do get leave from the Hon. Members today is bring forward an appropriate Bill which will bring enabling forces to then create such a register in law so that those functions that I have already mentioned can come together. As I say, if it had been envisaged earlier, I would have been more than pleased to include that in the debt; but I was simply bolting that Bill on to what appeared at the time to be an appropriate function in order for such a register to be able to do the functions, which I am sure every Hon. Member required, but was also required in the spirit of the original Bill, sir.

Thank you, and I beg to move.

The Speaker: Hon. Members, the motion is that leave be given to introduce a Private Member's Bill, as set out at Item 6. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that concludes the business of the House today.