

**Summary Jurisdiction and Miscellaneous Amendments Bill 2013**  
**First Reading approved**

2. Mr Downie to move:

*That the Summary Jurisdiction and Miscellaneous Amendments Bill 2013 be read for a first time.*

**The Acting President:** Hon. Members, we now turn to Item 2 on our Order Paper, the Summary Jurisdiction and Miscellaneous Amendments Bill 2013, and I call upon Mr Downie to now move the First Reading.

**Mr Downie:** Thank you, Mr Acting President.

Before I commence with the First Reading, could I just draw to Hon. Members' attention that we have with us this morning Mr Tom Bateman, from the Department of Home Affairs, and Mr Ian Gilmore, from the General Registry. These two gentlemen have been involved in working up the Bill and they are available, should there be any technical issues that might arise during the First Reading.

I would like to thank Members who attended the presentation that was given on 17th April 2013. In moving that this Bill be read for the first time, I believe I should highlight its importance to the Island's reputation as an open, transparent and well-regulated jurisdiction, and to enhancing the Island's standing in the international community.

Central to that is a robust criminal justice system, which has the teeth to enforce criminal financial penalties, which have been ordered to be paid against offenders. This enforcement action needs to be efficient and flexible, in order to maximise the collection rates and minimise the need for repeated court appearances to enforce payment or, as a last resort, to deprive the offender of their liberty for non-payment, when intermediate custody was not deemed necessary by the sentencing court.

Several studies have been recently undertaken, mostly by the Fines Working Group and the Public Accounts Committee, and this Bill is intended to enact their recommendations for enhancing and streamlining the system, as well as to make several minor amendments to other legislation.

The primary objectives of the Bill are to provide for: attachment of earnings orders; applications for deductions from benefit orders; plea before venue provisions; creation of a Fines, etc Register; extension of banning orders for drink-related offences; removal of need for the Judge of Appeal to be an English barrister and a Queen's Counsel; permitting the First Deemster to act in the absence of the Second Deemster; removing the need for a court to order the forfeiture of a mobile phone used while driving; and, finally, other minor amendments.

The benefits arising from the Bill are as follows.

The so-called 'plea before venue' clauses aim to reduce unnecessary appearances in court and reduce the preparation time for uncontested cases.

The Bill will allow attachment of earnings orders to be made at the time the original sentence is handed down, and will allow a court to vary, suspend or revoke an order or application, or substitute an alternative sentence or method of enforcement.

It will be more efficient and encourage effective use of the court resources.

The Bill will enable a criminal court to apply for deductions from defined social security benefits, including, but not limited to, income support in payment of fines and other criminal financial penalties.

The Bill provides for a Fines, etc Register, which will allow details of the fines defaulters to be published, and make this information available to credit reference agencies, thus encouraging people to meet their financial obligations.

The Bill removes the requirement for the Judge of Appeal to be an English barrister and a Queen's Counsel. It also provides that, where the High Court Act 1991 refers to 'the Deemsters', this expression means the First Deemster only, wherever the Second Deemster is unavailable, or the office of Second Deemster is vacant.

It moves the fines provisions of section 27(1) of the Criminal Law Act 1981 into the Criminal Jurisdiction Act 1993, where they sit more readily.

The Bill amends the Licensing Act 1995, to extend the list of offences in respect of which the court may ban offenders from licensed premises or from purchasing alcohol, and enables the court to order a further ban, if a banning order is breached.

It also gives greater flexibility by enabling the Department of Home Affairs to prescribe, by order, other offences for which a court can make a banning order.

The Bill removes the requirement for a court to order the forfeiture of a mobile phone which was being used while driving. The person reporting the offence does not have power to seize the phone at the roadside for wider legal and practical implications, and it is not possible to make such an order several months after

the offence was committed.

Mr Acting President, in having outlined the primary aims of this Bill, I now beg to move that the Summary Jurisdiction and Miscellaneous Amendments Bill 2013 be read for the first time.

**The Acting President:** Is there a seconder?

**Mr Crowe:** I beg to second, Mr Acting President, and reserve my remarks.

**The Acting President:** Mr Crowe.  
Does any other Member wish to speak?

**Mr Crowe:** Can I just continue, Mr...?

**The Acting President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** Can I just thank the hon. mover for this Bill, which will, I think, simplify and streamline some of the court procedures. As we get to the Second Reading and clauses, we will be able to look at in more depth, but just in clause 8 – it is an interesting one – is to maintain a Fines, etc Register.

This will obviously highlight people who are in default of fines and it is my understanding, I am not sure what the latest information is, but I believe there is quite a substantial amount of money owing on parking fines and other fines for road traffic offences, which the hon. mover may be able to highlight, but having this fines register, will it help in collecting some of these outstanding amounts?

More importantly, as it will be available to credit reference agencies, it will presumably be an incentive for the defaulters to pay up so that they do not lose their credit ratings for borrowing money from banks or other hire purchase companies, such as that.

So, as I say, it seems to be a step forward, which will help Government revenues and simplify some of the collection procedures.

Other clauses, I will comment on, as we go through the next Readings, Mr Acting President.

**The Acting President:** Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Mr Acting President.

Just to make the comment, I thought the actual presentation to Members in April was very informative and helpful and, to me, this comes across as a practical and common sense piece of legislation. I agree entirely with my hon. colleague, Mr Crowe: I think the register will actually help the collection process because, hopefully, people will not want to be on it.

So it has my support. Thank you.

**The Acting President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Mr Acting President.

Again, I would like to look at the Register of Fines and the use of credit reference agencies, and ask the question whether that will be a two-way passage of information, or just the courts providing the information on fines to the credit reference agency.

I am thinking that perhaps it would be helpful to the court to know if the person was a defaulter, with reference to any form of credit or fines in the UK, or something like that, prior to coming to their judgment on what they would wish to award. So I was really wanting to know whether that will be a two-way passage of data or just a one-way passage?

Thank you.

**The Acting President:** Hon. Member Mr Turner.

**Mr Turner:** Thank you, Mr Acting President.

The mover, in his speech, said that it would be streamlining the process. I am just wondering where the costs will be saved and, in the time when we are trying to streamline all areas of Government and the processes, does this mean that we will actually see reductions in the administration in the overall costs – maybe reductions in number of posts? Who will actually benefit from the savings?

Also, I would like to ask the mover, I see that Government is bringing forward legislation here to chase its own debts, but I see very little being done to deal with the civil debts. What help is going to be given?

We had the Hon. Member, Mr Houghton's Bill brought through, which I brought through this place on

his behalf, to deal with debt collection for civil debts and that, I believe, has stalled in amongst the mire of all sorts of bureaucracy. Why was the opportunity not taken in this Miscellaneous Amendments Bill to clear that up, to enable that to also proceed, because it looks like Government is just looking after itself, rather than looking after the people, when there are vast numbers of civil debts out there and we are looking after ourselves here, but everyone else will have to just wait. I think that is something that is urgent because the economy depends on businesses to function.

Attachment of earnings, I understood, were already in place and I understand this will enable a smoother process of that because it is not particularly straightforward at the moment.

I am not quite sure whether I am comfortable with Mr Coleman's view that they should be looking at other debts from elsewhere. That is almost like... the whole idea of some of these fixed penalty and things, unpaid things... they are not supposed to be like a criminal record, so I think we are going to territory there that we should not be. I think we should be focused on what the particular motoring offence is and chase it up, and have those paid.

But I think if we are going to be looking after ourselves, we need to also be dealing with that other issue where we had a piece of worthy legislation which, so far, has completely stalled. That also needs to be dealt with, to enable the private sector to also chase its debts, as well as Government.

Thank you.

**The Acting President:** Hon. Member, Mr Butt.

**Mr Butt:** Thank you, Mr Acting President.

I would just like to ask the mover for some future clarification later in the proceedings to do with the intention as to plea.

It would appear from the way that the new 15A is worded that the person brought before a court may be asked to make a plea there and then, but, at that stage, they may not have all of the disclosure of evidence that is against them and they may not be in a position to plead, and they are allowed... I see, if they do not actually make a plea, there will be an assumption they pleaded not guilty. The point I am trying to make is that later on when the Deemster comes to sentence, he needs to take into account whether there has been an early guilty plea or not, in terms of what sentence he would give, but under this legislation it may be the person cannot make an early guilty plea because they have not had the information they need to decide which way to go.

So there needs to be some information for the Deemster to make him aware that the person was not able to make a plea at that stage, he was not being, should we say, awkward or not trying to help the procedure; he just did not have the information at the time to make his guilty plea in a proper way with the full information. So, if you can bear that in mind, when we come to the clauses stage about the effect it would have on sentencing in the future, if he had not made a guilty plea at the very earliest opportunity.

Thank you.

**Mr Downie:** Mr Acting President, we could actually get that matter cleared up now, if you wish, because that is why Mr Bateman has come along with Mr Gilmore from the Courts.

**The Acting President:** Mr Bateman – Keith, could you just put the microphone on, please? Thank you.

**Mr Butt:** Just, my point is about the Deemster having the knowledge that he could not make an early plea because he did not have the information at the time.

**Mr Bateman:** Mr Acting President, the plea before venue...

**The Acting President:** Before... Mr Bateman, could you please give your full name and also what your position is?

**Mr Bateman:** Tom Bateman, Legislation Manager, Department of Home Affairs.

**The Acting President:** Thank you, and could you possibly answer the query, please, that Mr Butt has raised?

**Mr Bateman:** The provisions primarily work where someone knows they are guilty and wishes to plead guilty at the earliest opportunity, i.e. in their mind there is no question about it – 'fair cop, gov, I committed the offence, I will admit it'.

Where there is an arguable case and the person wants to reserve their plea until the case is before them, I

would expect the courts to be made aware by the defence that the person had an arguable case but wanted to see what the prosecution case was and the Deemster, or the court before whom the person is set, if it is a summary case, would take that into account i.e. that they pleaded guilty at the earliest reasonable opportunity.

So it works on two levels. The first is those who know they are guilty and wish to plead guilty immediately. But, where there is a question of an arguable case and they therefore require more information from the prosecution before they can see whether or not it is a case worth arguing, the defence counsel would bring that to the attention of the sentencing court at a later date – ‘my client pleaded guilty at the earliest opportunity, bearing in mind we felt the case was arguable’.

**The Acting President:** Does that answer your query, Mr Butt?

**Mr Butt:** Yes, the way the Act is, this could mean the very first appearance in court could be the time when they are actually expected to plead, and they may not have had the evidence produced to them at that stage.

So, as long as the Deemster is aware that at the earliest reasonable opportunity they pleaded guilty, that should cover the situation.

Thank you.

**The Acting President:** Thank you Mr Bateman. Does any other Member wish to speak?  
Okay, thank you. I now call on Mr Downie to reply to the debate.

**Mr Downie:** Thank you, Mr Acting President.

First of all, could I thank Mr Crowe for seconding the First Reading today. He is quite right; the legislation that is before us it is hoped will enable them to streamline some of the court procedures.

This is an issue that Government has been trying to tackle for a long time and a similar exercise has been going on in the adjacent isle, and under other jurisdictions in the British Isles, about trying to streamline court procedures, trying to provide for a much quicker and faster process, but also be aware that, with a justice system, there does come with it considerable cost. If there is no interference on the justice system, but if a way can be found to make the system more efficient, and therefore reduce costs, surely it is worth fighting for.

Mr Crowe mentioned clause 8, the Fines Register. Clause 8 inserts a new section – 101A – into the Act and provides for a publicly accessible Fines, etc Register to be set up and maintained.

It is intended that this will comprise those who have defaulted on payment. The content of the register will be governed by the Rules of Court. Charges for accessing the Register may be fixed by the Treasury and the proceeds of such charges are to be applied in paying the expenses incurred in maintaining the Register.

The Register may be maintained by a body corporate, such as a registries trust, which operates similar registers for other jurisdictions. So what we are doing is not new here. Other people have gone down the same route and that is what we are also trying to do.

It is no secret, Hon. Members, some people who appear before the courts have literally run up, in some cases, thousands of pounds in unpaid fines and this is another tool in the armoury that will be used, so that if a person wants to be continually abusing the legal system and the justice system, one of the threats would be that their name could appear on a debtors’ register and hopefully it will persuade some people that it is perhaps not a good thing for their credit rating and so on.

Mr Wild thought the presentation was helpful. Anything to do with the courts I find can be fairly complex and it is always useful to have people available to give you some insight as to how the system works, and I am grateful for his content.

I think in dealing with clause 8, I dealt with Mr Coleman’s query about the credit agencies, and so on.

Mr Turner – streamlining the process, when will money be saved? One of the tasks I have to do now in accepting responsibility for the courts is to try and look at ways that we can streamline the process and get better value for money. You will be aware, in this last week, the UK have announced a whole fresh approach to Legal Aid and so on. That has been a big bone of contention in the Isle of Man – as, as Mr Turner quite rightly points out, is the recovery of civil debts. He asked what are we going to do about it. I am advised that one of the tasks I have is to look at Mr Houghton’s Bill and see if we can implement that and bring lots of the good ideas into practice, and try and move that forward.

I am thankful for the input that we have had today, Hon. Members. One of the things I must stress, in this Bill, and I have no wish to put any pressure on Council in any way, but we urgently need this. There are a lot of issues here to be dealt with. There has been a lot of outstanding money and if we are going to bring about change, we need to bring it in as quickly as we possibly can.

When we sit again, which is in two weeks’ time, depending on the way things go and the amount of

questions that are asked, I could well be looking for a suspension of Standing Orders to have the Bill read a second, clauses and a third time.

So if you want to speak to me about any of the issues we have talked about today, I am not trying to stifle debate or anything, but it would be useful to get your support and to bring this forward as soon as we can.

So with that, Mr Acting President, I beg leave to move the First Reading of the Summary Jurisdiction and Miscellaneous Amendments Bill 2013.

**The Acting President:** Thank you.

I shall now put the motion to the Council. The motion is that the Summary Jurisdiction and Miscellaneous Amendments Bill 2013 be read a first time. All those in favour, say aye; against, no. The ayes have it. The ayes have it.