

## **Summary Jurisdiction and Miscellaneous Amendments Bill 2013**

### **Third Reading approved**

**The President:** We will proceed now to the Third Reading.  
Mr Downie.

**Mr Downie:** Yes, thank you, Madam President.

In moving the Third Reading of the Bill, the majority of the clauses in this Bill address recommendations made to streamline the process for collecting criminal and financial penalties. The 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.

Several studies have been undertaken, most recently by the Fines Working Group and the Public Accounts Committee, and the Bill is intended to enact their recommendations for enhancing and streamlining the system.

The Bill will provide clear powers for a court of summary jurisdiction to make attachment of earnings orders and/or applications for reduction of benefit orders upon imposing a penalty or at any time when a criminal financial penalty remains unpaid and without requiring the Chief Registrar first to obtain execution.

It will also enable the court to postpone the operation of such an order application for as long as the paying party complies with a default obligation, but will enable the order to be activated by the Chief Registrar in the event of default in payment of an instalment, without having returned to the court for activation of the relevant order by the court. These amendments are intended to streamline the collection and enforcement process within the courts.

The Bill will also include new powers for the Chief Registrar to obtain information from the Treasury, the Department of Social Care or by court order from the Police for the purposes of assisting a court to determine whether to make an attachment of earnings order or application for deduction from benefits.

The Bill also enables the Chief Registrar to maintain a register of fines defaulters and to make information from the register available to interested persons, which might include credit reference agencies. The details of the registration scheme are to be set out in the Rules of Court.

Minor amendments are also made to address issues identified in other legislation affecting the work of the courts in judicial processes – notably the power to impose orders banning persons convicted of drink related offences from licensed premises, streamlining the process where an accused person admits an offence in a law court which is to be transferred to a higher court, and clarifying or amending certain definitions related to judges of the High Court.

The Bill also repeals the provisions of the Criminal Law Act 1981 relating to the remission of fines as by virtue of clause 10 of this Bill. These will now be included in the Criminal Jurisdiction Act 1993, where it is more appropriate for these to reside and makes a consequential repeal to paragraph 22 of the Summary Jurisdiction Act 1989.

The Bill repeals a requirement in the Road Traffic Act 1985 for a court to order the forfeiture of a mobile telephone upon conviction for using a mobile phone when driving, since in practice there is no way of enforcing this several months after the offence was committed, given there is no power for the person reporting the offence to seize the actual phone at the time of its use.

The Bill is short, consisting of 13 clauses. The original proposal was circulated for public consultation in September 2012 and as a result of the comments received during that consultation process, a number of certain amendments have been incorporated in its drafting.

Madam President, I beg to move that Summary Jurisdiction and Miscellaneous Amendments Bill 2013 be read for a third time.

**Mr Braidwood:** Madam President, I am quite happy to second the Third Reading of the Bill and can I also thank Hon. Members who actually voted for the suspension to enable the Third Reading to go ahead.

From what Mr Downie mentioned about the fines which have accumulated and are unable to be paid into the Registry and also, as well as the Acting Attorney General, particularly on the non-forfeiture at the present time of the mobile phones and no prosecutions going ahead because in 1996, I think it was when I first raised that, I hoped that legislation would be introduced for banning or for fining people who were using a hand-held mobile phone whilst driving. I do actually believe that the penalty should be strengthened because I do believe actually there should be a ban if a person is found guilty of holding a hand-held mobile phone while driving – at least a penalty of three months' ban.

So with that, Madam President, I am quite happy to second the Third Reading.

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

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

Madam President, I broadly support the principles of this Bill and what it is trying to achieve. I think as a former member of the Public Accounts Committee at the time when you were Chairman of that, it was not a mess, but we did find that the collection of fines was haphazard and certainly was not rigorously enforced in every area, and this Bill will go a long way to achieving a better system on that.

I do have some concerns about the inflexibility that may come from the attachment of earnings and attachment of benefits. Under the older systems, the court had total discretion to state the rate of repayment of fines and when and how they were paid, etc and took into account people's personal circumstances. I hope the regulations that come with this will actually give the discretion that is needed to make sure that happens.

I am also slightly concerned about the issue of taking of early plea, that people might be pressured into making a plea too early in the proceedings before they have the full information of the nature of the offence against them. I hope that the courts will take that into account, the fact they did not make a plea at the very earliest opportunity will not be held against them if they then make their guilty plea later on.

And finally, one of the reasons for this is to keep people out of prison for not paying their fines. It should be recognised that there are some people who deliberately choose to go to prison rather than pay their fines and that is not anecdotal. People used to come in and save their warrants up and then come in to get a bit of a rest in prison and (*Laughter*) sometimes when the weather was not so good. (*Laughter*)

I presume there will still be an option if none of these methods work, there still will be the option of going to prison in the alternative of paying fines. But they have changed the Bill to try and stop that happening, which is the right way it should be.

So I do broadly support this Third Reading.

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

**Mr Crowe:** Thank you, Madam President.

Yes, I too support the hon. mover in his attempts to get this Bill through and echo some of the comments Mr Butt has made, which I made earlier on the clauses stage.

An interesting facet of this Bill is the Fines Register which should help to improve the collection of fines and I know this is going to be the rules of court will determine what amounts etc will be or who will be put on the register. The question I would just ask – maybe the Member has not got the detail – but is there going to be a *de minimis* amount before the person goes on the register and has any indication been given of what the Treasury will charge for accessing the contents of the register?

**The President:** The mover to reply.

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

Dealing with the last issue first from Mr Crowe, I would like to thank him for his support through the Bill. He made reference to the Fines Register. There are Rules of Court which will determine this and within those rules I would imagine that the amounts will be made quite clear.

I think the message has to get across that if people are not paying their fines and they have legitimate means to do so, they will appear on this register and the message needs to go out that this will eventually start to affect their credit rating and things like that and that is why it is important that when the rules are being drawn up by the Fines Register, people need to get the message and understand the implications that this could possibly bring.

I would like to thank Mr Braidwood, both for seconding the Bill through its various clauses today. He mentioned the fines. It has been a major problem trying to get some money out of people and I did give a bit of a potted history about the various Tynwald Committees that have tried to get on top of this situation and we are where we are today because the Public Accounts Committee, Internal Audit of Government, the Fines Working Group and so on, they have all grappled with this situation. I am hoping now that once the Bill is enacted, it will give the courts and those in the judiciary the proper means to be able to hold some of these people to account.

Mr Butt supported the principle of the Bill. Obviously, he has had lots of experience over the years in dealing with the courts. He was concerned about the inflexibility attached to earnings. Well, that will have to be determined by the officers of the courts themselves, but I would assume that when the regulations come out, they will be made very, very clear in what they can and cannot do.

The plea situation, the early plea, there is so much of the courts' time wasted now by people who change their plea at the eleventh hour and there are also a number of people who, for whatever reason, want to say, 'Well, it is a fair cop. I am guilty and let's get on and deal with the situation.'

It is hoped by introducing this system that it will save an awful lot of the courts' time... and do not forget when the clock is ticking, Hon. Members, most of the people in this situation are Legal Aid funded as well.

So we have looked at this provision and we think that it will actually work in the Isle of Man.

As far as the other matter Mr Butt raised about people wanting to deliberately go to jail, well we have always had that and that is a sad fact of life.

I thank Mr Butt for his support. He is one of the people in this Court who does have a lot of experience in this area and a lot of knowledge and he is probably seeing life from both sides. So he has been a very good arbiter, I think, of this Bill and other legislation that has come before us.

Finally, I would like to thank the Hon. Members who have supported the Bill and let us hope that we can agree and get on and I beg to move the Bill be read for a third time.

Thank you, Madam President.

**The President:** The motion is that the Bill be read a third time and do pass. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That concludes our public business for this morning, Hon. Members. Council will now adjourn until the sitting of Tynwald Court on Friday, 5th July at St John's.

We will now sit for a moment in private, please.

*The Council sat in private at 11.40 a.m.*