



## CONTEMPT OF COURT BILL 2025

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## CONTEMPT OF COURT BILL 2025

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### Explanatory Memorandum

1. This Bill is promoted by XXXX
2. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.
3. *Clause 1* provides for the short title of the resultant Act.
4. *Clause 2* provides for the coming into operation of the Act.
5. Part 2 (*clauses 3 to 7*) deals with key concepts.
6. *Clause 3* sets out the 3 types of contempt dealt with by the Act.
7. *Clause 4* defines “publication” for the purposes of the Act.
8. *Clause 5* defines “court” for the purposes of the Act.
9. *Clause 6* deals with rules of court.
10. *Clause 7* defines “court officer” for the purposes of the Act.
11. Part 3 (*clauses 8 to 17*) sets out the elements of the 3 types of contempt. General contempt is dealt with in *clauses 8* and *9*. Publication contempt when proceedings are active is dealt with in *clauses 10* to *12*. Breach contempt is dealt with in *clauses 13* to *17*.
12. Part 4 (*clauses 18 to 29*) sets out the powers available to the courts in dealing with a contempt. *Clauses 18* to *20* deal with the powers of the superior courts; *clauses 21* to *23*, those of the Land Commissioner; *clauses 24* to *26*, those of the summary courts and *clauses 27* and *28*, those of the inferior courts. *Clause 29* deals with power to impose a term of custody where a person has defaulted on the payment of a fine.
13. Part 5 (*clauses 30 to 32*) deal with the circumstances where a contempt is not committed. *Clause 30* provides that the contemporary reporting of proceedings is not (subject to certain conditions) a publication contempt. *Clause 31* provides that (subject to certain conditions) the publication of information about proceedings in private is not a contempt and *clause 32* provides that a publication as part of a discussion of public affairs is not (in certain cases) a contempt for the purposes of the Act.
14. Part 6 (*clauses 33 to 35*) deals with referrals and appeals in respect of, and against a finding of, or penalty imposed in respect of, contempt. *Clause 33* provides that referrals from one court to another under the Act, are subject to the applicable rules of court. *Clause 34* provides that an appeal against a finding of, or penalty in respect of, contempt is likewise subject to the applicable rules of

court. *Clause 35* provides that an appeal is subject to the permission requirements of the relevant rules of court.

15. Part 7 (*clauses 36 to 39*) covers a number of miscellaneous and associated matters. *Clause 36* deals with the provision of legal aid in connection with contempt. *Clause 37* deals with proceedings in respect of contempt and people under the age of 17, or with a mental disorder. *Clause 38* deals with the availability of damages in certain contempt cases. *Clause 39* repeals the *Courts Amended Procedure Act 1876* and introduces Schedule 2.
16. Schedule 1 sets out when proceedings are active for the purposes general contempt.
17. Schedule 2 makes consequential amendments to other legislation.

Consultation copy – for reference purposes only



# CONTEMPT OF COURT BILL 2025

## A BILL to

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows: —

## PART 1 – INTRODUCTORY

### 1 Short title

The short title of this Act is the Contempt of Court Act 2025.

### 2 Commencement

- (1) This Act commences on the day or days appointed in an order made by XXXX.  
Tynwald procedure — laying only.
- (2) An order under subsection (1) may appoint different days for different purposes.

## PART 2 – KEY CONCEPTS

### 3 Contempt of court

- (1) For the purposes of this Act, “**contempt of court**” is any of the following —
  - (a) general contempt;
  - (b) publication contempt where proceedings are active;
  - (c) breach contempt.
- (2) Conduct amounting to a contempt under this Act does not constitute a criminal offence and —
  - (a) the burden of proof lies on the person claiming that a contempt has been committed; and

- (b) the standard of proof is beyond reasonable doubt.
- (3) Where conduct referred to in subsection (2) constitutes an offence under other Manx legislation or at common law, it remains so and may be dealt with under that legislation or law.

#### 4 Publication: meaning

- (1) **“Publication”** includes any speech, writing, broadcast, online publication, publication in a programme or other communication whether written or spoken, sign or visible representation which is addressed to —
  - (a) the public at large or any section of the public; or
  - (b) the court.
- (2) Publication in a programme includes in a programme service.
- (3) **“Programme”** and **“programme service”** have the same meanings as in the *Communications Act 2021*.
- (4) **“Recording”** means a visual or sound recording (whether or not with a view to publication) on any medium, including (in particular) —
  - (a) films and other video-recordings, with or without sound;
  - (b) other photographs; and
  - (c) sketches and portraits,of any person who is a judge of the court, a judicial officer, a juror, a witness or a party in any proceedings before the court.

#### 5 Court: meaning

- (1) In this Act —
  - (a) **“Appeal Division”** means the Staff of Government (Appeal Division) of the High Court;
  - (b) **“court”** means any individual or body exercising the judicial power of the State;
  - (c) **“inferior court”** means —
    - (i) the Advocates Disciplinary Tribunal established by section 15A of the *Advocates Act 1976*;
    - (ii) any body (not otherwise specified) of which the Chairperson is, or has the status of a judge of the High Court or the High Bailiff;
    - (iii) Commissions Rogatoire;
    - (iv) the Coroners of Inquests;

- (v) the High Bailiff sitting alone as an appellate body (for example, when dealing with an appeal under section 2(8) of the *Firearms Act 1947*);
    - (vi) the Juvenile Court;
    - (vii) Treasure Trove;
    - (viii) a tribunal mentioned in Schedule 2 to the *Tribunals Act 2006*;
  - (d) “The Land Commissioner” means the person appointed to that post pursuant to section 2 of the *Land Registration Act 1982*;
  - (e) “summary court” means a court of summary jurisdiction;
  - (f) “superior court” means —
    - (i) a court of General Gaol Delivery;
    - (ii) the High Court (Civil Division and Appeal Division);
    - (iii) the Land Court established under the *Agricultural Holdings Act 1969*.
- (2) A reference to a specific court or “court” generally, includes a reference to the court sitting virtually.
- (3) A “virtual court” is one in which the members of the court and those taking part in the proceedings in any capacity may do so by a live audio link or a live video link and without being physically present.
- (4) A “live audio link” referred to in subsection (3) is a live telephone link or other arrangement which —
- (a) enables a person (P) to hear all other persons taking part in the proceedings who are not in the same location as P; and
  - (b) enables all other persons taking part in the proceedings who are not in the same location as P to hear P.
- (5) A “live video link” referred to in subsection (3) is a live television link or other arrangement which —
- (a) enables a person (P) to see and hear all other persons taking part in the proceedings who are not in same location as P; and
  - (b) enables all other persons taking part in the proceedings who are not in the same location as P to see and hear P.

## 6 Rules of court

- (1) “Summary rules of court” means rules of court made under section 91 of the *Summary Jurisdiction Act 1989*.
- (2) “High Court rules of court” means rules of court made under section 25 of the *High Court Act 1991*.

## 7 Court officer

For the purposes of this Act, “court officer” includes a court security officer appointed under Part 8A of the *Criminal Justice, Police and Courts Act 2007*.

# PART 3 – THE “CONTEMPTS”

## *General Contempt*

## 8 General contempt: elements

- (1) General contempt consists of —
  - (a) publication at a time when proceedings referred to in the publication are not active; or
  - (b) other conduct that does not constitute breach contempt, which satisfies subsection (2).(See Schedule 1 for when proceedings are active).
- (2) This subsection is satisfied where the publication or conduct in question —
  - (a) interferes in a non-trivial way with the administration of justice by impeding or prejudicing it; or
  - (b) creates a substantial risk of doing so: for the purposes of this paragraph it is not necessary to prove that the conduct in question actually interfered with the administration of justice.
- (3) For the purposes of this section, “proceedings” includes those which are imminent.
- (4) The interference must, —
  - (a) be more than trivial; and
  - (b) be intentional.
- (5) Intention may be direct or indirect.
- (6) A person has —
  - (a) a direct intention where they act in order to bring about an interference with the administration of justice which is more than trivial;
  - (b) an indirect intention where they do not act to bring about such an interference but are aware that such an interference is virtually a certain consequence of their act.

## 9 General contempt: examples

- (1) Without limiting section 8(1), a general contempt includes —



- (a) disrupting court proceedings whether in the court (including through virtual attendance) or its environs (for example, shouting in court, insulting participants in proceedings, refusing to sit where directed);
- (b) obstructing court officers or staff in the execution of their duties;
- (c) threatening (whether verbally or non-verbally) or assaulting such officers or staff, parties to proceedings, witnesses or jurors;
- (d) taking photographs in court;
- (e) disclosing jury deliberations (including statements made, opinions expressed, arguments advanced and votes cast by members of the jury during their deliberations in proceedings);
- (f) disclosing (including on social media), without lawful authority, the identity of a party or witness to proceedings;
- (g) making audio or video recordings of proceedings without permission;
- (h) misconduct by jurors (for example attending whilst intoxicated);
- (i) disobeying a court order made for the purpose of protecting the administration of justice (for example, embargoes on publication);
- (j) disobeying a court order made for the purpose of protecting the identity of those who were participants in proceedings or publishing any information that enables them to be identified;
- (k) subverting an order of the court or destroying evidence or the subject matter of the proceedings;
- (l) encouraging or assisting another to disobey a court order;
- (m) providing false statements or disclosures to the court;
- (n) accessing court documents without authorisation;
- (o) misconduct by legal representatives (for example, conduct which goes beyond mere discourtesy or a breach of professional duties).

*Publication contempt where proceedings are active*

## 10 Publication contempt where proceedings are active: elements

[P1981/49/1 and 2(1) and drafting]

- (1) A “**publication contempt where proceedings are active**” consists of a publication which creates a substantial risk that the course of justice in the proceedings in question will be seriously impeded or prejudiced.
- (2) Schedule 1 specifies when proceedings are active for the purposes of this Act.
- (3) A publication contempt under this section cannot be a general contempt.

## 11 Publication contempt: publisher

- (1) A person (P) commits publication contempt under section 10 as the publisher of the material in question if, regardless of intention to interfere with the administration of justice, P acts recklessly in publishing that material.
- (2) For these purposes, P acts recklessly if P knew proceedings were active or had reason to suspect that they were.
- (3) A person (P) commits publication contempt under section 10 as the publisher in relation to material previously published on-line where —
  - (a) that material subsequently creates a substantial risk of interference in the proceedings in question;
  - (b) P has notice that those proceedings are active; and
  - (c) P has notice of the specific material that is potentially prejudicial to those proceedings.
- (4) An on-line publication means a publication produced or uploaded —
  - (a) in the Island; or
  - (b) outside the Island by a person habitually resident in the Island or by an organisation with a place of business in the Island.

## 12 Publication contempt: distributor

- (1) A person (P) commits publication contempt under section 10 as the distributor of the material in question if, regardless of intention to interfere with the administration of justice, P was reckless as to whether the distribution created a substantial risk that the administration of justice in the proceedings in question would be seriously impeded or prejudiced.
- (2) For these purposes P is reckless if P —
  - (a) knew there was a risk that the proceedings in question were active; and
  - (b) unreasonably distributed the material in question regardless of that risk.

### *Breach contempt*

## 13 Breach contempt: general

- (1) “**Breach contempt**” consists of a deliberate failure to comply with a court order or undertaking;
- (2) A person (P) commits a breach contempt where conditions 1 to 3 are satisfied (see sections 14 to 16).

**14 Breach contempt: condition 1**

- (1) Condition 1 is that there is a court order or undertaking which P knew bound P.
- (2) It is not necessary to show that P knew of the terms of the order or undertaking.
- (3) The order or undertaking must clearly state on its face that failure to comply constitutes a contempt.

**15 Breach contempt: condition 2**

- (1) Condition 2 is that P's conduct consists of a deliberate failure to comply with the court order or undertaking in question.
- (2) It is not necessary to show that P intended to breach the order or undertaking by that conduct.

**16 Breach contempt: condition 3**

Condition 3 is that P was aware of the facts or circumstances which made P's conduct a breach of the order or undertaking.

**17 Breach contempt: supplementary**

- (1) For the purposes of breach contempt, it is not necessary to show that significant consequences resulted from P's breach of the order or undertaking.
- (2) A breach contempt cannot be a general contempt.

**PART 4 -POWERS OF COURTS AND RELEVANT TRIBUNALS****18 Superior courts**

- (1) The superior courts may deal with any contempt affecting their own proceedings.
- (2) Where a superior court makes a finding of contempt against a person (C), it may do either or both of the following, —
  - (a) commit C to custody for a term not exceeding 2 years;
  - (b) impose an unlimited fine.
- (3) Where C is physically before the court or within its immediate vicinity at the time of committing the contempt, a judge of the court may, by order, direct any officer of the court or any constable —
  - (a) to remove C; or
  - (b) to take C into custody and detain C until the rising of the court.

- (4) The doing of either (or both) of the things referred to in subsection (2) does not preclude the making of an order under subsection (3).
- (5) The Appeal Division of the High Court may, instead of dealing with a contempt matter affecting its own proceedings itself, of its own motion refer that matter to the Civil Division of that court.

This is subject to High Court rules of court and any directions of the First Deemster.

- (6) Where the Appeal Division makes a referral mentioned in subsection (5), the Civil Division of the High Court may deal with the matter as if were a contempt affecting its own proceedings.

## 19 Custody: superior courts

- (1) A committal to custody by a superior court may be —
  - (a) immediate; or
  - (b) suspended for such a period and on such terms as the court may specify.
- (2) In circumstances where —
  - (a) the court has made a finding of contempt against a person (C); and
  - (b) an order for immediate committal is highly likely, but the court has not yet imposed a sanction,it may remand C in custody.
- (3) Where the court is considering imposing a committal order and C is, or appears to be, suffering from a mental disorder within the meaning of the *Mental Health Act 1998*, it must before making such an order —
  - (a) obtain and consider a medical report in respect of C; and
  - (b) consider the likely effect of committal on C's condition.

## 20 Fines: superior courts

A fine imposed by a superior court may be suspended for such period and on such terms as the court may specify.

## 21 Land Commissioner

- (1) The Land Commissioner may deal with any contempt affecting the Commissioner's own proceedings.
- (2) Where the Land Commissioner makes a finding of contempt against a person (C), the Commissioner may do either or both of the following —
  - (a) commit C to custody for a term not exceeding 2 years;
  - (b) impose an unlimited fine.

- (3) Where C is physically before the Land Commissioner or within the immediate vicinity of where the Commissioner is conducting proceedings at the time of committing the contempt, the Commissioner may, by order, direct any officer of the court, or any constable —
  - (a) to remove C; or
  - (b) to take C into custody and detain C until the end of proceedings for the day in question.
- (4) The doing of either (or both) of the things referred to in subsection (2) does not preclude the making of an order under subsection (3).
- (5) For the purposes of this section, disobedience of an order of the Registrar referred to the Land Commissioner pursuant to section 8 to the *Land Registration Act 1982*, is a contempt matter affecting the Commissioner's own proceedings.
- (6) The Land Commissioner may, instead of dealing with a contempt matter affecting the Commissioner's own proceedings personally, of the Commissioner's own motion refer that matter to the Civil Division of the High Court.  
  
This is subject to High Court rules of court and any directions of the First Deemster.
- (7) Where the Land Commissioner makes a referral mentioned in subsection (6), the Civil Division of the High Court may deal with the matter as if it were a contempt affecting its own proceedings.

## 22 Custody: Land Commissioner

- (1) A committal to custody by the Land Commissioner may be —
  - (a) immediate; or
  - (b) suspended for such a period and on such terms as the Commissioner may specify.
- (2) In circumstances where —
  - (a) the Land Commissioner has made a finding of contempt against a person (C); and
  - (b) an order for immediate committal is highly likely, but the Commissioner has not yet imposed a sanction,
 the Commissioner may remand C in custody.
- (3) Where the court is considering imposing a committal order and C is, or appears to be, suffering from a mental disorder within the meaning of the *Mental Health Act 1998*, it must before making such an order —
  - (a) obtain and consider a medical report in respect of C; and
  - (b) consider the likely effect of committal on C's condition.

**23 Fines: Land Commissioner**

A fine imposed by the Land Commissioner may be suspended for such period and on such terms as the Commissioner may specify.

**24 Summary courts**

- (1) A summary court may deal with any contempt affecting its own proceedings.
- (2) Where a summary court makes a finding of contempt against a person (C), it may do either or both of the following —
  - (a) commit C to custody for a term not exceeding 6 months;
  - (b) impose an unlimited fine.
- (3) Where C is physically before the court or within its immediate vicinity at the time of committing the contempt, a judge of the court may, by order, direct any officer of the court, or any constable —
  - (a) to remove C; or
  - (b) to take C into custody and detain C until the rising of the court.
- (4) The doing of either (or both) of the things referred to in subsection (2) does not preclude the making of an order under subsection (3).
- (5) A summary court may, instead of dealing with a contempt matter affecting its own proceedings itself, of its own motion refer that matter to the Civil Division of the High Court.

This is subject to High Court rules of court and any directions of the First Deemster.

- (6) Where a summary court makes a referral mentioned in subsection (5), the High Court may deal with the matter as if were a contempt affecting its own proceedings.

**25 Custody: summary courts**

- (1) A committal to custody by a summary court may be —
  - (a) immediate; or
  - (b) suspended for such a period and on such terms as the court may specify.
- (2) In circumstances where —
  - (a) the court has made a finding of contempt against a person (C); and
  - (b) an order for immediate committal is highly likely, but the court has not yet imposed a sanction,it may remand C in custody.

- (3) Where the court is considering imposing a committal order and C is, or appears to be, suffering from a mental disorder within the meaning of the *Mental Health Act 1998*, it must before making such an order —
  - (a) obtain and consider a medical report in respect of C; and
  - (b) consider the likely effect of a committal on C's condition.

## 26 Fines: summary courts

A fine imposed by a summary court may be suspended for such period and on such terms as the court may specify.

## 27 Inferior courts

- (1) Where a person (C) is physically before an inferior court or within its immediate vicinity at the time of committing the contempt, the court may deal with that matter.
- (2) Where an inferior court makes a finding of contempt against C under subsection (1), it may impose a fine of level 3 on the standard scale.
- (3) Where subsection (2) applies, the court may, by order direct any officer of the court or (if applicable) any constable, to remove C.
- (4) The imposition of a fine under subsection (2) does not preclude the making of an order under subsection (3).
- (5) Where subsection (1) applies, a judge of the court may, by order, direct any officer of the court or any constable to take C into custody and detain C until the rising of the court.
- (6) An inferior court —
  - (a) must refer the following contempts affecting its proceedings to a summary court —
    - (i) general contempt not covered by subsection (1) (including contempt by publication when proceedings are not active);
    - (ii) publication contempt when proceedings are active; and
    - (iii) breach contempt; and
  - (b) may, instead of dealing with a contempt referred to in subsection (1) itself, refer that matter to a summary court.
- (7) Where subsection (6) applies, the summary court may deal with the matter as if were a contempt affecting its own proceedings.

## 28 Fines: inferior courts

A fine imposed by an inferior court may be suspended for such period and on such terms as the court may specify.

**29 Fines: custody in default of payment**

- (1) Where a court imposes a fine and the person by whom it is to be paid (P) fails to do so —
  - (a) a justice of the peace may issue a warrant committing P to custody for the relevant term; and
  - (b) where a justice does not do so, the court that imposed the fine may do so.
- (2) Where the amount due as a fine does not exceed an amount specified in column 1 of the following table, the relevant term is a term not exceeding the corresponding period specified in column 2 of the table —

<b>Column 1 Amount</b>	<b>Column 2 Period</b>
£100	7 days
£200	14 days
£500	1 month
£1,000	2 months
£2,500	3 months
More than £2,500	6 months

- (3) Where P pays part of the fine due whilst in custody, the period of custody imposed under this section shall be reduced by the relevant percentage.
- (4) For these purposes, the relevant percentage is a percentage equal to the amount paid expressed as percentage of the amount due.
- (5) Where P is committed to custody under this section, P shall be released on payment of total amount of the fine due unless P is in custody for some other cause.

**PART 5 – EXCLUSIONS****30 Contemporary reporting of proceedings**

[P1981/49/4]

- (1) A person does not commit a publication contempt in respect of a fair and accurate report of legal proceedings held in public where the report is published contemporaneously and in good faith.
- (2) Where proceedings are held in public the court may order that the publication of any report of the proceedings, or any part of them, be postponed for such period as it thinks necessary where it considers that is necessary to avoid a substantial risk of prejudice or impediment to the



administration of justice in those proceedings or in any other pending or imminent proceedings.

- (3) For the purposes of subsection (1) a report of proceedings is to be treated as published contemporaneously —
  - (a) in the case of a report the publication of which is postponed under an order under subsection (2), if published as soon as practicable after that order expires;
  - (b) in the case of a report of committal proceedings the publication of which is permitted by virtue only of section 7(4) of the *Summary Jurisdiction Act 1989*, if published as soon as practicable after it is permitted by that section.

### 31 Publication of information relating to proceedings in private

[P1960/65/12 and drafting]

- (1) The publication of information relating to proceedings before a court sitting in private shall not of itself be a contempt.
- (2) But such a publication will be a contempt where any of subsections (3) to (7) apply.
- (3) This subsection applies where the proceedings —
  - (a) relate to the exercise of the inherent jurisdiction of the High Court with respect to minors;
  - (b) engage Part 8 or 9 of the *Sexual Offences and Obscene Publications Act 2021*;
  - (c) involve a witness anonymity order under the *Criminal Justice (Witness Anonymity) Act 2011*;
  - (d) are brought under the *Adoption Act 2021* or the *Children and Young Persons Act 2001*; or
  - (e) otherwise relate wholly or mainly to the maintenance or upbringing of a minor.
- (4) This subsection applies where proceedings are brought under any provision of the *Mental Health Act 1998* authorising an application or reference to be made to the High Court.
- (5) This subsection applies where the information in question relates to a secret process, discovery or invention.
- (6) This subsection applies where, during that part of the proceedings about which the information in question is published, the court sits in private for reasons of national security of —
  - (a) the Island; or
  - (b) the United Kingdom.

- (7) This subsection applies where the court expressly prohibits the publication of all, or specified, information relating to the proceedings.
- (8) The publication of the text or a summary of the whole or part of an order made by a court sitting in private does not of itself constitute a publication contempt except where the court expressly prohibits the publication.
- (9) In this section —
  - (a) references to a court include references to —
    - (i) a judicial officer; and
    - (ii) any person exercising the functions of a court or a judicial officer; and
  - (b) references to a court sitting in private include references to a court sitting *in camera* or in chambers.

## 32 Discussion of public affairs

[P1981/49/5 and drafting]

A publication made as, or as part of, a discussion in good faith of public affairs or other matters of general public interest is not to be treated as a contempt where the risk, —

- (a) to the authority of the court or any judicial proceedings; or
- (b) of prejudice or impediment to the administration of justice in legal proceedings,

is merely incidental to the discussion.

## PART 6

### REFERRALS AND APPEALS

## 33 Referrals

A referral to a summary court or, as the case may be, the High Court is subject to the summary rules of court and the High Court rules of court (as appropriate).

## 34 Appeals

- (1) An appeal against —
  - (a) a finding of contempt;
  - (b) a sanction imposed in respect of such a finding; or
  - (c) both,shall be subject to the summary rules of court and the High Court rules of court (as appropriate).

- (2) Where the Appeal Division of the High Court has, at first instance, made a finding of contempt and imposed a sanction in respect of that finding, an appeal against that finding or sanction lies to a differently constituted court of that Division.

### 35 Permission

An appeal shall be subject to the permission requirements of the summary rules of court and the High Court rules of court (as appropriate).

## PART 7 - OTHER MATTERS

### 36 Legal aid

- (1) If a person is liable to be committed or fined under this Act by a court of summary jurisdiction, a Court of General Gaol Delivery or by the High Court, the court may order that the person is to be given legal aid for the purposes of the proceedings.
- (2) If an order under subsection (1) is made by any court, it may order that the legal aid to be given is to consist of representation by any advocate assigned by the court, and for this purpose the court may assign any advocate who is within the precincts of the court at the time when the order is made.

### 37 Proceedings

- (1) In the exercise of jurisdiction to commit a person (P) for contempt of court, the court must not deal with P by making an order under Schedule 7 to the *Criminal Justice Act 2001* (an attendance centre order) if it appears to the court, after considering any available evidence, that P is under 17 years of age.
- (2) This subsection applies where a person (P) suffering from mental disorder could otherwise be committed to prison for contempt of court.
- (3) Where subsection (2) applies, the High Court and a Court of General Gaol Delivery has, in respect of P, the same powers as a Court of General Gaol Delivery has under section 54 of the 1993 Act (and referred to in subsection (4)) in the case of a person convicted of an offence.
- (4) Those powers are to make —
  - (a) a hospital order;
  - (b) a guardianship order; or
  - (c) an interim hospital order.

- (5) This subsection applies where there is reason to suspect that a person (P) who could be committed to prison for contempt of court is suffering from mental disorder.
- (6) Where subsection (5) applies, the High Court and a Court of General Gaol Delivery have, in respect of P, the power under Schedule 1A to the 1993 Act to remand P for a report on P's mental condition in the same way as a Court of General Gaol Delivery has the power under that Schedule to remand an accused person for a report on their mental condition.
- (7) In this section —  
 “the 1993 Act” means the *Criminal Jurisdiction Act 1993*;  
 “accused person” has the meaning it has in Schedule 1A to the 1993 Act;  
 “mental disorder” has the meaning it has for the purposes of the 1993 Act (see section 54(12) of that Act).

### 38 Judicial acts – availability of damages in certain contempt cases

- (1) Section 9 of the *Human Rights Act 2001* (judicial acts) is amended as follows.
- (2) In subsection (3)(b), at the end add **“and in the circumstances described in subsection (3ZA)”**.
- (3) After subsection (3) insert —  

<b>“(3ZA)”</b>	The circumstances are where —
(a)	proceedings for contempt of court are brought against the person,
(b)	the person is deprived of legal representation at a hearing in the proceedings due to a judicial act that is incompatible with the person's rights under Article 6 of the Convention,
(c)	the outcome of the proceedings is that the person is committed to an institution, and
(d)	the person would not have been committed to that institution, or would have spent less time there, but for the incompatible judicial act. <b>”</b>
- (4) In subsection (5) at the appropriate place insert —  

<b>““institution”</b>	has the meaning given by section 26 of the <i>Custody Act 1995</i> and includes any other place where a person committed for contempt of court may be detained; <b>”</b>
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### 39 Transitional and transitory etc. provision

- (1) The XXXX may, by regulations, make provision that is consequential on any provision of this Act.

- (2) Regulations under subsection (1) may make any incidental, supplementary, transitional, transitory or saving provision the XXXX consider appropriate for the purposes of, or in connection with, or for giving full effect to this Act or any provision made under it.

#### **40 Repeals and consequential amendments**

- (1) The *Courts Amended Procedure Act 1876* is repealed.
- (2) Schedule 2 deals with consequential amendments and has effect for that purpose.

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## SCHEDULE 1

## WHEN PROCEEDINGS ARE ACTIVE FOR PURPOSES OF SECTION 10

[Section 10]

**1 Interpretation**

- (1) In this Schedule —
  - (a) “**criminal proceedings**” means proceedings against a person in respect of an offence, not being appellate proceedings or proceedings commenced by motion for committal or attachment in the Island; and
  - (b) “**appellate proceedings**” means proceedings on appeal from or for the review of the decision of a court in any proceedings.
- (2) In this paragraph the reference to an offence includes a service offence within the meaning of the Armed Forces Act 2006 (of the Westminster Parliament) as it applies in the Island.

**2 Introductory**

- (1) Criminal, appellate and other proceedings are active for the purposes of section 8 at the times respectively prescribed by the following paragraphs of this Schedule.
- (2) In relation to proceedings in which more than one of the steps described in any of those paragraphs is taken, the reference in that paragraph is a reference to the first of those steps.

**3 When criminal proceedings are active**

Criminal proceedings are active from the relevant initial step specified in paragraph 4 until concluded as described in paragraph 5.

This is subject to the following provisions of this Schedule.

**4 Initial steps in criminal proceedings**

The initial steps of criminal proceedings are —

- (a) arrest without warrant;
- (b) the issue of a warrant for arrest;
- (c) the issue of a summons to appear;
- (d) the service of an information or other document specifying the charge;
- (e) oral charge.

## 5 When criminal proceedings end

Criminal proceedings are concluded —

- (a) by acquittal or, as the case may be, sentence;
- (b) by any other verdict, finding, order or decision which puts an end to the proceedings;
- (c) by discontinuance or operation of law.

## 6 Extended definition of “sentence”

The reference in paragraph 5(a) to sentence includes any order or decision consequent on conviction or finding of guilt which disposes of the case, either absolutely or subject to future events.

## 7 Discontinuance

Proceedings are discontinued within the meaning of paragraph 5(c) —

- (a) if the charge or summons is withdrawn or a *nolle prosequi* entered; or
- (b) in the case of proceedings commenced by arrest without warrant, when the person arrested is released, otherwise than on bail, without having been charged.

## 8 Effect of an order that a charge lie on the file

Criminal proceedings cease to be active if an order is made that the charge lie on the file but become active again if leave is later given for the proceedings to continue.

## 9 Defendant unfit to plead or subject to a hospital order

Criminal proceedings cease to be active —

- (a) if the accused is found to be under such a disability as to render the person unfit to plead; or
- (b) if a hospital order is made under section 58(5) of the *Mental Health Act 1998*,

but become active again if they are later resumed.

## 10 Defendant for whose arrest warrant issued

Criminal proceedings against a person (“P”) which become active on the issue or the grant of a warrant for P’s arrest cease to be active at the end of the period of twelve months beginning with the date of the warrant unless P has been arrested within that period, but become active again if P is subsequently arrested.



**11 Proceedings at first instance**

- (1) Proceedings, other than criminal proceedings and appellate proceedings, —
  - (a) are active from the time a unique identifying reference is allocated to the matter in question by an officer of the court; and
  - (b) cease to be active when the proceedings are disposed of or discontinued or withdrawn.
- (2) For the purposes of this paragraph any application made in or for the purposes of any proceedings, and any pre-trial review in the High Court, is to be treated as a distinct proceeding.
- (3) For the purposes of this paragraph arrangements for the hearing of proceedings are made —
  - (a) in the case of proceedings in the High Court for which provision is made by rules of court for setting down for trial, when the case is set down;
  - (b) in the case of any proceedings, when a date for the trial or hearing is fixed.

**12 When appellate proceedings are active**

Appellate proceedings are active from the time when they are commenced, —

- (a) by application for permission to appeal or apply for review, or by notice of such an application;
- (b) by notice of appeal or of application for review;
- (c) by other originating process,

until disposed of or abandoned, discontinued or withdrawn.

**13 Appellate proceedings which relate to criminal proceedings**

Where, in appellate proceedings relating to criminal proceedings, the court —

- (a) remits the case to the court below; or
- (b) orders a new trial,

any further or new proceedings which result are to be treated as active from the conclusion of the appellate proceedings.

## SCHEDULE 2

## CONSEQUENTIAL AMENDMENTS

[Section 39]

**1 Amendment of the Administration of Estates Act 1990**

In section 13 of the *Administration of Estates Act 1990*, omit subsection (3).

**2 Amendment of the Administration of Justice Act 1981**

In Schedule 3 to the *Administration of Justice Act 1981*, in paragraph 3, omit subparagraph (3).

**3 Amendment of Bail Act 1952**

In section 3A of the *Bail Act 1952* (as inserted by paragraph 79(3) of Schedule 1 to the *Justice Reform Act 2021*) —

(a) for subsection (5), substitute —

**(5)** An offence under subsection (1) or (2) is punishable on summary conviction. **(5)**;

(b) for subsection (7)), substitute —

**(7)** A person who is convicted summarily of an offence under subsection (1) or (2) and —

(a) is not committed to a Court of General Gaol Delivery for sentence shall be liable to custody for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both;

(b) is to a Court of General Gaol Delivery for sentence for sentence shall be liable to custody for a term not exceeding 12 months or to a fine or to both. **(7)**.

**4 Amendment of the Coroners of Inquests Act 1987**

In section 19 of the *Coroners of Inquests Act 1987*, omit subsection (3).

**5 Amendment of the Criminal Justice (Penalties, Etc.) Act 1993**

In the *Criminal Justice (Penalties, Etc.) Act 1993* omit section 10.

**6 Amendment of the Inquiries (Evidence) Act 2003**

In section 2 of the *Inquiries (Evidence) Act 2003*, omit subsections (2) and (3).

**7 Amendment of the Judgments Enforcement Act 1886**

- (1) The *Judgments Enforcement Act 1886* is amended as follows.
- (2) In section 6, for “then the Coroner” to the end substitute “he commits a contempt of court”.
- (3) Omit section 7.

**8 Amendment of the Land Registration Act 1982**

In section 8 of the *Land Registration Act 1982*, omit —

- (a) “thereupon,”;
- (b) “subject to his right of”; and
- (c) “, be punished” to the end.

**9 Amendment of the Legal Aid Act 1986**

At the end of the table in Schedule 3 to the *Legal Aid Act 1986* add items 16 to 19 as set out in the table below.

Proceedings in which legal aid under Part II may be granted.	Authority by whom legal aid may be granted.	Person to whom legal aid may be granted.
16. Proceedings before a court of summary jurisdiction for contempt of court.	The court of summary jurisdiction.	The alleged contemnor.
17. Proceedings before a Court of General Gaol Delivery for contempt of court.	A Court of General Gaol Delivery.	The alleged contemnor.
18. Proceedings in the High Court for contempt of court.	The High Court.	The alleged contemnor.
19. Appeal to the Staff of Government Division from an order in respect of contempt of court made by a court of summary jurisdiction or a Court of General Gaol Delivery.	The Staff of Government Division or the court whose order is the subject of the appeal.	The appellant.

**10 Amendment of the Matrimonial Proceedings Act 2003**

- (1) The *Matrimonial Proceedings Act 2003* is amended as follows.
- (2) In section 91, omit subsection (6).
- (3) Omit section 114.

**11 Amendment of the Summary Jurisdiction Act 1989**

In the *Summary Jurisdiction Act 1989*, omit section 90.

**12 Amendment of the Trade Disputes Act 1985**

In the *Trade Disputes Act 1985*, in section 4, omit subsection (4).

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