

The text of this Act is shown “as amended” by amendments found within the Justice Reform (Amendment) Bill 2025 (JRAB) once these take effect.

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AT 11 of 2021

JUSTICE REFORM ACT 2021

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JUSTICE REFORM ACT 2021

Index

Section	Page
PART 1 – INTRODUCTORY	9
1 Short title.....	9
2 Commencement.....	9
3 Interpretation.....	10
PART 2 – CO-OPERATION BETWEEN AGENCIES	10
4 Criminal Justice Board to continue to exist.....	10
5 Sharing information	12
PART 3 – CHANGES TO THE JURISDICTION AND PROCEDURE OF THE SUMMARY COURTS	13
DIVISION 1 – PRELIMINARY	13
6 Introduction.....	13
DIVISION 2 – JURISDICTION AND PROCEDURE OF SUMMARY COURTS	14
<i>Subdivision 1: Juvenile courts</i>	<i>14</i>
7 Juvenile court renamed and jurisdiction extended.....	14
8 Amendments consequent on section 7 etc	14
<i>Subdivision 2: Extending the jurisdiction of the High Bailiff courts of summary jurisdiction</i>	<i>16</i>
9 Jurisdiction of High Bailiff courts of summary jurisdiction extended.....	16
10 Changes to jurisdiction of High Bailiff courts of summary jurisdiction: consequential and incidental amendments.....	18
<i>Subdivision 3: Procedure of summary courts in criminal cases</i>	<i>19</i>
11 Pre-trial rulings in the summary courts	19
12 Abolition of committal proceedings	23
13 Discontinuance of proceedings in courts of summary jurisdiction: section A8 inserted.....	24
14 Non-appearance of the accused: plea of guilty: section 11 amended.....	25

15	Indication as to plea: ss. 15A and 15B amended	25
16	Summary trial of Schedule 2 offences: s. 16 and that Schedule repealed	26
17	Committal for sentence — s. 17 amended	26
18	Summary trial of offences triable either way, — s. 18 replaced by ss. 18 to 18E	26
19	Summary trial of a child or young person: s. 19 amended	38
20	Right to claim jury trial for certain summary offences: s. 21 repealed	39
21	Restriction on fines on children and young persons: s. 27 amended	39
21	Restriction on fines on children and young persons: s. 27 repealed	39
22	Corporations: s. 32 substituted	39
23	Person before summary court in connection with proceedings in Court of General Gaol Delivery: s.33ZA inserted	42
23A	Section 30A inserted	43
23B	Section 47 amended	43
23C	Section 67 amended	44
23D	Section 69 amended	44
24	Limitation of time: s. 75 amended	44
	<i>Subdivision 4: Other procedural provisions</i>	44
25	Authentication of court records: s. 79A inserted	44
26	Rules of court: s. 91 amended	45
26A	Rules of court: s 91 substituted	46
27	Live audio and video links for proceedings in the summary courts or before the High Bailiff: s. 91A inserted	48
28	Enforcement — Part VIII amended	50
29	Powers of Deemsters: s.111 amended	54
29A	Schedule 1 amended	54

PART 4 — CHANGES TO PROCEDURE OF COURTS OF GENERAL GAOL DELIVERY

55

30	Criminal Jurisdiction Act 1993 amended	55
31	Courts of General Gaol Delivery: s. 1 amended	55
31A	Commencement of proceedings on information – s. 2 amended	55
32	Procedure in connection with offences sent for trial: s. 2A and Sch. A1 inserted	55
33	Discontinuance of proceedings after accused sent for trial: s. 2B inserted	63
34	Power to join count for summary offence in information: s. 5A inserted	64
35	Plea of not guilty: s. 8 amended	64
36	Determination of guilt by Deemster alone and ancillary matters: ss. 8A to 8E inserted	65
36A	Unfitness to plead– s. 9 amended	65
36B	Admission of depositions – ss.14 and 15 amended	66
37	Supplemental powers of the appeal court: s. 37 amended	66
38	Criminal appeals in respect of rulings: s. 42A amended	66
38A	Start of trial: s. 42A further amended	66
39	Powers exercisable by a single judge: s. 43 amended	66
39A	Information for libel: s 55 repealed	66

40	Electronic communications in proceedings	67
41	Interpretation — section 59 amended.....	67
PART 5 — COSTS IN CRIMINAL PROCEEDINGS		67
DIVISION 1 — COSTS OUT OF GENERAL REVENUE		67
42	Defence costs	67
43	Legal costs.....	70
DIVISION 2 — OTHER PROVISIONS ON COSTS		72
44	Award of costs against accused.....	72
45	Provision for orders as to costs in other circumstances	73
46	Costs against legal representatives	75
47	Provision for award of costs against third parties	76
DIVISION 3 — GENERAL		76
48	Regulations.....	76
49	Interpretation, etc.....	78
50	Amendment and repeals consequent on provision made by this Part.....	79
PART 6 — CAUTIONING OF OFFENDERS		79
DIVISION 1 — INTRODUCTION		79
51	Introduction.....	79
52	Interpretation.....	79
53	Circumstances in which a caution may not be given	81
54	Duty to consult victims.....	81
DIVISION 2 — UNCONDITIONAL CAUTIONS		81
55	Unconditional cautions.....	81
56	Unconditional cautions: the 5 requirements	82
DIVISION 3 — CONDITIONAL CAUTIONS		82
57	Conditional cautions	82
58	Conditional caution: the 5 requirements	84
59	Variation of conditions.....	85
60	Failure to comply with conditions	85
61	Arrest for failure to comply	85
62	Application of provisions of PPPA 1998	87
63	Code of practice: cautions and youth cautions.....	88
64	Assistance of probation officers.....	89
65	Youth cautions	89
DIVISION 4: AVAILABLE REMEDIES AND OUT-OF-COURT DISPOSALS		89
66	Statement of available remedies.....	89
67	Anti-social behaviour etc.: out-of-court disposals	90
DIVISION 5: CONSEQUENTIAL AMENDMENTS		91
68	PPPA 1998 amended	91
69	Fingerprinting: s. 64 amended	91

70	Other samples: s. 66 amended	96
71	Fingerprints and samples: supplementary provisions: s. 67 amended	96
72	Destruction of fingerprints and samples: s. 68 amended	97
73	Part V – supplementary: s, 69 amended.....	97
74	Footwear impressions, etc: s. A77 amended.....	97
75	CJA 2001 amended	97
76	Rehabilitation of Offenders Act 2001 amended	98
77	Sex Offenders Act 2006 amended	99

PART 7 – IMMEDIATE FINANCIAL PENALTIES 100

DIVISION 1 – OFFENCES TO WHICH THIS DIVISION APPLIES 100

78	Offences leading to immediate financial penalties.....	100
79	Interpretation	101

DIVISION 2 – PENALTY NOTICES AND PENALTIES 101

80	Penalty notices	101
81	Amount of penalty and form of penalty notice	102
82	Effect of penalty notice	103
83	General restriction on proceedings.....	103
84	Code of practice	104

DIVISION 3 – PROCEDURE 105

85	Payment of penalty	105
86	Registration certificates	105
87	Enforcement of fines	106

PART 8 – HARASSMENT AND STALKING 107

88	Protection from Harassment Act 2000 amended	107
89	Prohibition of harassment – section 1 amended	107
90	Offence of harassment – section 2 substituted	107
91	Stalking – sections 2A and 2B inserted.....	107
92	Civil remedy – section 3 amended.....	107
93	Injunctions to protect persons from harassment within section 1(1A): section 3A inserted	107
94	Putting people in fear of violence, – section 4 substituted	107
95	Stalking involving fear of violence or serious alarm or distress – section 4A inserted	107
96	Restraining orders – section 5 amended	107
97	Restraining orders on acquittal – section 5A inserted.....	108
98	Interpretation – section 7 substituted	108

PART 9 – MISCELLANEOUS AND GENERAL 108

DIVISION 1 – JUDICIAL RETIREMENT 108

99	Judicial retirement at 75.....	108
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DIVISION 2 – ELECTRONIC COMMUNICATIONS IN CONNECTION WITH LAND REGISTRATION 109

100	Use of electronic communications in connection with land registration: Land Registration Act 1982 amended.....	109
DIVISION 3, — AMENDMENTS		109
101	Evidence Act 1871 amended	109
102	Legal Aid Act 1986 amended	109
103	Jury Act 1980 amended	109
104	Fatal Accidents Act 1981 amended	110
105	Coroners of Inquests Act 1987 amended.....	110
106	Custody Act 1995 amended	111
107	CJA 2001 amended	111
108	Human Rights Act 2001 amended.....	111
109	Rehabilitation of Offenders Act 2001 amended.....	112
110	Matrimonial Proceedings Act 2003 amended.....	112
111	Interpretation Act 2015 amended: meaning of “the Deemsters”	112
112	Criminal Evidence Act 2019: section 38A inserted	113
112A	Effect of sealed orders etc	Error! Bookmark not defined.
113	Dormant Assets Act 2019: section 39 amended.....	Error! Bookmark not defined.
114	Criminal Justice, Police and Courts Act 2007: sections 30A to 30D inserted amended.....	113
114A	Sentencing Council.....	Error! Bookmark not defined.
DIVISION 4 — REPEALS		128
115	Repeals	128
SCHEDULE 1		129
AMENDMENTS		129
DIVISION 1 — AMENDMENTS TO THE CRIMINAL CODE 1872		129
DIVISION 2 – MISCELLANEOUS ENACTMENTS		155
SCHEDULE 2		195
PROCEEDS OF CRIME ACT 2008 AMENDED IN CONSEQUENCE OF THE EXTENSION OF THE HIGH BAILIFF’S SENTENCING POWERS		195
SCHEDULE 3		203
ABOLITION OF COMMITTAL PROCEEDINGS — CONSEQUENTIAL AMENDMENTS		203
SCHEDULE 4		205
SCHEDULE TO BE INSERTED AS SCHEDULE 1A TO THE REHABILITATION OF OFFENDERS ACT 2001		205
ENDNOTES		209
TABLE OF ENDNOTE REFERENCES		209

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JUSTICE REFORM ACT 2021

<i>Signed in Tynwald:</i>	<i>20 July 2021</i>
<i>Received Royal Assent:</i>	<i>20 July 2021</i>
<i>Announced to Tynwald:</i>	<i>20 July 2021</i>

AN ACT to make new provision about the trial and sentencing of offenders and the procedures of the criminal courts, harassment and stalking and juries and their verdicts; to place the Criminal Justice Board on a statutory footing; to make fresh provision about judicial retirement; to enable sentencing guidelines to be adopted; to authorise rules of court to enable or require delivery and authentication of information in or in connection with court proceedings by electronic means; to authorise the use of live video and audio links in summary court proceedings and in other proceedings before the High Bailiff; to make minor amendments to legislation; and for connected purposes.

BE IT ENACTED by the Queen'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 Justice Reform Act 2021.

2 Commencement

- (1) This Act comes into operation on such day or days as the Department may by order appoint.¹
- (2) An order under subsection (1) may make such consequential, incidental and transitional provision as the Department considers necessary.

Tynwald procedure for an order under subsection (1) — laying only.

- (3) If it appears to the Council of Ministers to be necessary or expedient to make further provision in consequence of the enactment of this Act it may, after consultation with the Deemsters, make such provision by order.

Tynwald procedure — affirmative.

3 Interpretation

- (1) In this Act, —

- (a) “CJA 1993” means the *Criminal Jurisdiction Act 1993*;
- (b) “CJA 2001” means the *Criminal Justice Act 2001*;
- (c) “CYPA 1966” means the *Children and Young Persons Act 1966*;
- (d) “PPPA 1998” means the *Police Powers and Procedures Act 1998*; and
- (e) “SJA 1989” means the *Summary Jurisdiction Act 1989*.

- (2) In this Act, —

“the Appeal Division” means the Staff of Government Division of the High Court; and

“the Department” means the Department of Home Affairs.

PART 2 — CO-OPERATION BETWEEN AGENCIES

4 Criminal Justice Board to continue to exist

- (1) The Criminal Justice Board, originally established by the Department in accordance with its Criminal Justice Strategy in 2012, continues to exist.
- (2) The following are to be members of the Board —
- (a) the Chief Officer of the Department;
 - (b) the Deputy Chief Officer of the Department;
 - (c) the Chief Officer of the Department of Health and Social Care;
 - (d) the Attorney General;
 - (e) the Chief Constable;
 - (f) the Chief Registrar;
 - (g) the Head of the Isle of Man Prison and Probation Service, Department of Home Affairs;
 - (h) the Head of Rehabilitation and Family Court Welfare, IOM Prison and Probation Service, Department of Home Affairs;
 - (i) the Director of Prosecutions;
 - (j) the Legal Aid Certifying Officer (being a person appointed in regulations made under section 16 of the Legal Aid Act 1986); and
 - (k) a representative of the Isle of Man Law Society nominated by the Council of the Society.²

- (3) An officer listed in any of paragraphs (a) to (j) of subsection (2) may nominate a deputy to attend a particular meeting in his or her stead.³
- (4) The Department may by order —
 - (a) amend subsection (2) to vary the membership of the Board; and
 - (b) consequentially amend subsection (3).
- (5) Before making an order under subsection (4), the Department must consult the Board.
- (6) The Board is to have the following functions, —
 - (a) co-ordinating and facilitating the activities of those who have statutory functions in respect of criminal justice;
 - (b) monitoring the operation of the criminal justice system and the provision of criminal justice services;
 - (c) advising the Department on —
 - (i) the strategic allocation of resources;
 - (ii) the operation of the criminal justice system and the provision of those services;
 - (iii) steps to be taken which, in the opinion of the Board, would improve the operation of that system and those services.
- (7) For the sake of clarity, nothing in subsection (6) is to be taken to empower the Board to do anything which affects, or might be seen to affect, the independence of the judiciary.
- (8) The Department may by order amend subsection (6) to vary the Board's functions.

Before making an order under this subsection the Department must consult the Board and such other persons as it thinks appropriate.
- (9) The *Statutory Boards Act 1987* applies to the Board to such extent as may be specified in an order made by the Department (but not otherwise).

Tynwald procedure for an order under this section — affirmative.
- (10) The Department, after consulting the Criminal Justice Board, may by regulations do any or all of the following —
 - (a) establish one or more committees to support the functions of the Board;
 - (b) with respect to the chairperson and any member of such committee, make provision as to any or all of the following matters —
 - (i) appointment;
 - (ii) tenure;
 - (iii) discipline;
 - (iv) vacation of office;

- (c) set out the procedure and functions of these committees.

Tynwald procedure – negative.

- (11) The Criminal Justice Board must, as soon as possible after the 31st March in each year, submit to the Department a general report in writing on the Criminal Justice Strategy of the Island during the year ending on that date.
- (12) As soon as may be after the Department has received the report –
 - (a) the Department must cause a copy of the report to be laid before Tynwald; and
 - (b) the Minister for the Department must move a resolution that the report be received by Tynwald.

5 Sharing information

- (1) The Department may make provision by regulations authorising or requiring the disclosure of information –
 - (a) by a person of such description as may be prescribed;
 - (b) to a person of such description as may be prescribed; and
 - (c) in such circumstances as may be prescribed,if it appears to the person making the disclosure that such disclosure is necessary or expedient, –
 - (i) for the purpose of public safety;
 - (ii) for the purpose of preventing or reducing crime, disorder or anti-social behaviour;
 - (iii) for the purpose of safeguarding the welfare of a particular person; or
 - (iv) otherwise in the public interest.

Here “prescribed” means prescribed by, or in accordance with, the regulations.

Tynwald procedure – affirmative.

- (2) Before making regulations under subsection (1), the Department must consult, –
 - (a) the Deemsters;
 - (b) the Criminal Justice Board; and
 - (c) such other persons or bodies as the Department thinks appropriate.
- (3) A person holding information the disclosure of which is authorised in accordance with regulations under subsection (1) must have regard to the principle that helping to ensure that a victim is protected from harm should normally take precedence over –
 - (a) any applicable duty to keep information confidential; and

- (b) any limit on the disclosure of information imposed by the GDPR and LED Implementing Regulations 2018¹.
- (4) Disclosure of information under this section does not render a person liable to civil, criminal or disciplinary proceedings, unless the disclosure is made in bad faith.
- (5) Disclosure of information under this section does not preclude a person from subsequently asserting a right or privilege not to disclose that information for other purposes (and in particular does not prevent the assertion of legal professional privilege).

PART 3 – CHANGES TO THE JURISDICTION AND PROCEDURE OF THE SUMMARY COURTS

DIVISION 1 – PRELIMINARY

6 Introduction

[Drafting]

- (1) This Part –
 - (a) amends SJA 1989, –
 - (i) to extend the jurisdiction of the juvenile courts;
 - (ii) to increase the sentencing powers of the High Bailiff **and any court of summary jurisdiction**;
 - (iii) to abolish committal proceedings and to provide an alternative means of transferring cases to a Court of General Gaol Delivery;
 - (iv) to authorise the making of rules to enable or require the delivery and authentication of information in or in connection with the proceedings of summary courts to be given by electronic means; and
 - (v) to authorise the making of provision to enable the use of live video and live audio links in such proceedings (whether judicial or otherwise) as may be specified; and
 - (b) amends other enactments in consequence of, or otherwise in connection with the changes referred to in paragraph (a).
- (2) In this Part, a reference, without more, –
 - (a) to a numbered section or Part is a reference to the section or Part of SJA 1989 so numbered; or
 - (b) to a numbered Schedule is a reference to the Schedule to that Act which is so numbered.

¹ SD 2018/0145.

DIVISION 2 — JURISDICTION AND PROCEDURE OF SUMMARY COURTS

*Subdivision 1: Juvenile courts***7 Juvenile court renamed and jurisdiction extended**

- (1) The juvenile court is renamed the youth court, and its jurisdiction is extended so that it may deal with offenders who appear to it to be aged under 18 years (rather than under 17 years).
- (2) Section 8 below makes amendments consequent upon subsection (1).

8 Amendments consequent on section 7 etc

- (1) Subsections (2) to (13) amend Manx enactments to give effect to the renaming of the juvenile court and make other consequential and minor adjustments to those enactments.
- (2) In SJA 1989, —
 - (a) for “juvenile court” substitute “youth court” and for “juvenile courts” substitute «youth courts» wherever the respective expression appears in —
 - (i) section 3A(3);
 - (ii) section 11(1);
 - (iii) the heading to Part III;
 - (iv) section 37(1) to (3) and the section heading;
 - (v) section 38(1) to (6) and the section heading;
 - (vi) section 39(1), (2) and (3) and the section heading;
 - (vii) section 40(2) and (3) and the section heading;
 - (viii) section 67; and
 - (ix) ~~section 91(4)~~;
 - (b) in section 37(2) for “juvenile cases” substitute «cases falling within subsection (1)(a) or (b)»; and
 - (c) for section 40(1) substitute, —

« (1) A youth court sitting for the purpose of hearing a charge against a person who is believed to be under the age of 18 years may, if it thinks fit to do so, proceed with the hearing and determination of the charge, despite it being discovered that the person in question is not under that age.».
- (3) In the SJA 1989 for “17” substitute «18» in the following provisions, —
 - (a) ~~section 6(6)~~;
 - (b) section 15A(1);
 - (c) section 15B(1)(a);

- (d) section 17(1) and (2A);
 - ~~(e) section 19(2);~~
 - (f) section 38(2), (3) and (4)(a) and (b);
 - (g) section 40(2); and
 - (h) section 114, in the definition of “adult”.
- (4) In section 3 of the *Petty Sessions and Summary Jurisdiction Act 1927* in the definitions of “adult” and “young person” for “seventeen” substitute «eighteen».
- (5) In the *Criminal Justice Act 1963*, —
- (a) in section 25 “for juvenile court” substitute «youth court»;
 - (b) in section 35 in the definition of “supervising court” for the words following “child or young person” substitute «when the probation order was made, a youth court»;
 - (c) in section 35 in the definition of “young person”, for “seventeen years” substitute “eighteen years”.
- (6) In CYP A 1966, —
- (a) in section 107(1) for “seventeen” substitute «eighteen»; and
 - (b) in section 118, in the definition of “young person” for “seventeen” substitute «eighteen».
- (7) In the Schedule 3 to the *Criminal Law Act 1981* in paragraph 2(d) for “seventeen years” substitute «18 years».
- (8) In the *Legal Aid Act 1986* in entry 8 in Schedule 3, for “a juvenile court” in column 1 substitute «a youth court».
- (9) In Schedule 2 to the *Custody Act 1995*, in paragraph 8(4)(a) for “17” substitute «18».
- (10) In CJA 2001, —
- (a) in section 31(1)(b), in the substituted paragraph 4 of the *Criminal Law Act 1981* for “17” in both places substitute «18»;
 - (b) in section 35(10) and in Schedule 5 (wherever occurring) for “17” substitute «18»; and
 - (c) in Schedule 5 in paragraph 6(3) for “juvenile court” substitute «youth court» and for “a juvenile” substitute «a child or young person».
- (11) In the *Children and Young Persons Act 2001*, —
- (a) for “juvenile court” substitute «youth court» wherever the expression occurs in, —
 - (i) sections 27(2), 31(6)(b), 32(6), 33(11), 37(3) and 80(4);
 - (ii) paragraph 6(8) of Schedule 2;
 - (iii) paragraphs 5(5), 8(2) and 9(3) of Schedule 4;

- (iv) paragraphs 9(1), (3) and (9) and 10(5), (7), (8) and (11) of Schedule 9;
 - (b) in section 72(1) for “17” substitute «18»; and
 - (c) in section 102(1) at the end of the definition of “child” add —
«and, for the sake of clarity, in that Part it has the meaning given in paragraph 1 of the Schedule to the *Interpretation Act 2015*;».
- (12) In the *Education Act 2001* for “juvenile court” substitute «youth court» in —
- (a) in section 30(1); and
 - (b) in Schedule 5 in paragraphs 5(2) and 7.
- (13) In paragraph 1 of the Schedule to the *Interpretation Act 2015*, **at the appropriate point in the alphabetical list, insert —**
- «“**child**”, in relation to the investigation and prosecution of a criminal offence, means a person (“A”) who, in the opinion of any court, constable or other person dealing with A for the offence, is under the age of 14 years;»; and
 - «“**young person**” in relation to the investigation and prosecution of a criminal offence, means a person (“A”) who, in the opinion of any court, constable or other person dealing with A for the offence, has reached the age of 14 years but is under the age of 18 years;».

Subdivision 2: Extending the jurisdiction of the ~~High Bailiff~~ courts of summary jurisdiction

9 Jurisdiction of ~~High Bailiff~~ courts of summary jurisdiction extended

- (1) The jurisdiction of the ~~High Bailiff~~ is extended so as to permit a ~~High Bailiff~~ to deal with any offence, other than one for which the sentence is fixed by law, and impose 2 years’ custody **any court of summary jurisdiction is extended so as to permit a court of summary jurisdiction, including a youth court, to try a person with any offence, other than one for which the sentence is fixed by law, and impose a penalty of a maximum of 2 years’ custody** and an unlimited fine on conviction, subject to, —
- (a) the maximum penalty which may be imposed for the offence, in the case of an offence triable only summarily; and
 - (b) the maximum penalty which may be imposed on information in the case of an offence which would be triable either way or which, but for section 1A of SJA 1989 (which is inserted by subsection (4) below), would be triable on information.
- (2) Subsections (3) and (4) and sections ~~10 and 16~~ **10 to 16** make amendments to SJA 1989 consequent upon the extension in subsection (1).
- (3) ~~In section 1 (appointment and powers of High Bailiffs) —~~

(a) ~~in subsection (5) at the end insert «including youth courts, but subject to subsection (5A).»; and~~

(b) ~~after that subsection insert —~~

~~«(5A) Subsection (5) does not limit the extended powers conferred on the High Bailiff by section 1A.».~~

(3) In section 1 (appointment and powers of High Bailiffs) –

(a) in subsection (2) (where it first occurs) and subsections (3), (5) and (6), for “Deputy High Bailiff” substitute «a Deputy High Bailiff»;

(b) in subsection (4), after “High Bailiff” insert «and a Deputy High Bailiff»;

(c) in subsection (5) after “summary jurisdiction” insert «including youth courts.»;

(4) After section 1 insert —

«1A Extended powers of High Bailiff

(1) ~~When sitting as a court of summary jurisdiction, including a youth court, the High Bailiff may try a person for any offence, other than one for which the sentence is fixed by law.~~

(2) ~~On conviction of an offence falling within subsection (1), the High Bailiff may impose —~~

(a) ~~a term of custody (whether immediate or suspended) not exceeding 2 years; or~~

(b) ~~a fine.~~

~~This is subject to the qualifications in subsection (3).~~

(3) ~~Subsection (2) —~~

(a) ~~has effect despite any general restriction imposed on the sentencing powers of a court of summary jurisdiction (including, for the sake of clarity, a youth court); but~~

(b) ~~is subject —~~

(i) ~~in the case of an offence which, but for this section would be triable only on information, to the maximum sentence which might be imposed by a Court of General Gaol Delivery;~~

(ii) ~~in the case of an offence triable either way, to the maximum sentence which might be imposed by a Court of General Gaol Delivery; and~~

(iii) ~~in the case of an offence triable only summarily, to the maximum sentence prescribed for the offence.».~~

«1A Extended powers of court of summary jurisdiction

- (1) A court of summary jurisdiction, including a youth court, may try a person for any offence, other than one for which the sentence is fixed by law.
- (2) An offence is one for which the sentence is fixed by law where it is an offence in respect of which the court has no discretion as to the sentence which it may impose.
- (3) In this Act and any other enactment, except where the context otherwise requires, a reference to an offence triable either way includes a reference to an offence triable on information which, under subsection (1), a court of summary jurisdiction may try.
- (4) On conviction of an offence falling within subsection (1), a court of summary jurisdiction may impose —
 - (a) a term of custody (whether immediate or suspended) not exceeding 2 years; or
 - (b) a fine.

This is subject to the qualifications in subsection (5).
- (5) Subsection (4) —
 - (a) has effect despite any general restriction imposed on the sentencing powers of a court of summary jurisdiction (including, for the sake of clarity, a youth court); but
 - (b) is subject —
 - (i) in the case of an offence which, but for this section would be triable only on information, to the maximum sentence which might be imposed by a Court of General Gaol Delivery;
 - (ii) in the case of an offence triable either way, to the maximum sentence which might be imposed by a Court of General Gaol Delivery; and
 - (iii) in the case of an offence triable only summarily, to the maximum sentence prescribed for the offence.».

10 Changes to jurisdiction of ~~High Bailiff~~ courts of summary jurisdiction: consequential and incidental amendments

- (1) This section provides for amendments in consequence of the extension to the jurisdiction of the ~~High Bailiff~~ courts of summary jurisdiction made by section 9.
- (1A) In the SJA 1989, in section 3, in subsections (1) and (3) for “Deputy High Bailiff” substitute «a Deputy High Bailiff»;

- (1B) In the SJA 1989, in section 24(1) (consecutive terms of imprisonment), for “12 months” substitute «24 months».;»;
- (2) Schedule 1 has effect in connection with the extension made by section 9: it also contains other minor amendments to enactments amended in consequence of the extension and in connection with the abolition of the concepts of felony and penal servitude (which ceased to have effect with the coming into operation of Schedule 3 to the *Custody Act 1993* 1995).
- (3) Schedule 2 has effect to amend the *Proceeds of Crime Act 2008* in consequence of section 1A of the SJA 1989 (see section 9(4) above).
- (4) The Department, after consulting the Deemsters, may by order make such further provision in connection with the extended jurisdiction of the High Bailiff courts of summary jurisdiction as appears to the Department to be necessary or expedient.
- Tynwald procedure — approval required.
- (5) For the sake of clarity, the provision which may be made under subsection (4) includes provision amending or repealing Manx enactments (including those contained in this Act), and modifying Parliamentary enactments in their application to the Island, in order to secure consistency of treatment in relation to offences which would otherwise be punishable on information with 2 years’ custody or less.

Subdivision 3: Procedure of summary courts in criminal cases

11 Pre-trial rulings in the summary courts

After section 7 (but before the cross-heading preceding section 8) insert, —

«7A Power to make rulings at pre-trial hearing

P1980/43/8A and drafting

- (1) For the purposes of this section a hearing is a pre-trial hearing if, —
- (a) it relates to a complaint, —
 - (i) which is to be tried summarily, and
 - (ii) to which the accused has pleaded not guilty, and
 - (b) it takes place before the start of the trial.
- (2) For the purposes of subsection (1)(b), the start of a summary trial occurs when the court begins, —
- (a) to hear evidence from the prosecution at the trial; or
 - (b) to consider whether to exercise its power under ~~paragraph 1(1)(b) and (3) of Schedule 2A to this Act~~ **paragraph 2(3) of Schedule 2A** (power to make hospital order without convicting the accused).

- (3) At a pre-trial hearing, a court of summary jurisdiction may make a ruling as to any matter mentioned in subsection (4) if, —
 - (a) the condition in subsection (5) is met;
 - (b) the court has given the parties an opportunity to be heard; and
 - (c) it appears to the court that it is in the interests of justice to make the ruling.
- (4) The matters are, —
 - (a) any question as to the admissibility of evidence; and
 - (b) any other question of law relating to the case.
- (5) The condition is that, if the accused is not legally represented, —
 - (a) the court must ask whether the accused wishes to be provided with representation for the purposes of the proceedings under Part II of the *Legal Aid Act 1986*; and
 - (b) if the accused does wish it, the necessary arrangements must be made for the accused to apply for it and, where appropriate, obtain it.
- (6) A ruling may be made under this section, —
 - (a) on an application by a party to the case; or
 - (b) of the court's own motion.
- (7) For the purposes of this section and section 7B, references to the prosecutor are to any person acting as prosecutor, whether an individual or body.

7B Effect of rulings at pre-trial hearing

P1980/43/8B and drafting

- (1) A ruling under section 7A has binding effect from the time it is made until the case against the accused or, if there is more than one, against each of them, is disposed of, but subject to subsections ~~(3), (4) and (7)~~ **(3) and (6)**.
- (2) The case against an accused is disposed of if, —
 - (a) the accused is acquitted or convicted;
 - (b) the prosecutor decides not to proceed with the case against the accused; or
 - (c) the complaint is dismissed.
- (3) A court of summary jurisdiction may discharge or vary (or further vary) a ruling under section 7A if, —
 - (a) the condition in section 7A(5) is met;

- (b) the court has given the parties an opportunity to be heard; and
- (c) it appears to the court that it is in the interests of justice to do so.
- (4) The court may act under subsection (3)—
 - (a) on an application by a party to the case; or
 - (b) of its own motion.
- (5) No application may be made under subsection (4)(a) unless there has been a material change of circumstances since the ruling was made or, if a previous application has been made, since the application (or last application) was made.
- (6) A ruling under section 7A is discharged in relation to an accused if, —
 - (a) a court of summary jurisdiction sends the accused to a Court of General Gaol Delivery for trial for the offence charged in the complaint; or
 - (b) a count charging the accused with the offence is included in an information by virtue of section 5A of the *Criminal Jurisdiction Act 1993*.

7C Restrictions on reporting

- (1) Except as provided by this section no report of matters falling within subsection (2) may be published in the Island.
- (2) The following matters fall within this subsection, —
 - (a) a ruling under section 7A;
 - (b) proceedings on an application for a ruling under section 7A;
 - (c) an order under section 7B that a ruling under section 7A be discharged, varied or further varied;
 - (d) proceedings on an application under section 7B for a ruling under section 7A to be discharged, varied or further varied.
- (3) A court of summary jurisdiction dealing with any matter falling within subsection (2) may order that subsection (1) does not apply, or does not apply to a specified extent, to a report of the matter.
- (4) Where there is only one accused and he or she objects to the making of an order under subsection (3)—
 - (a) the court may make the order if (and only if) satisfied after hearing the representations of **the prosecution and** the accused that it is in the interests of justice to do so; and
 - (b) if the order is made, it shall not apply to the extent that a report deals with any such objection or representations.

- (5) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3)—
- (a) the court may make the order if (and only if) satisfied after hearing the representations of **the prosecution and** each of the accused that it is in the interests of justice to do so; and
 - (b) if the order is made, it does not apply to the extent that a report deals with any such objection or representations.
- (6) Subsection (1) does not apply to the publication of a report of matters after the case against the accused or, if more than one, against each of them, is disposed of.
- (7) Subsection (1) does not apply to a report which contains only one or more of the following matters, —
- (a) the identity of the court and the names of the justices;
 - (b) the names, ages, home addresses and occupations of the accused and witnesses;
 - (c) the offence or offences, or a summary of them, with which the accused or any of the accused are charged;
 - (d) the names of the advocates in the proceedings;
 - (e) where the proceedings are adjourned, the date and place to which they are adjourned;
 - (f) any arrangements as to bail;
 - (g) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under the *Legal Aid Act 1986*.
- (8) The addresses that may be included in a report by virtue of subsection (7) are addresses, —
- (a) at any relevant time; and
 - (b) at the time of their inclusion in the publication.
- (9) In subsection (8), “relevant time” means a time when events giving rise to the charges to which the proceedings relate are alleged to have occurred.
- (10) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on the publication of a report of any matter.
- (11) In this section and section 7D references to publication of a report of matters falling within subsection (2)—
- (a) include references to inclusion of those matters in any speech, writing, relevant programme or other communication in whatever form which is addressed to the public at large or any section of the public, and for this purpose the following are to be treated as so addressed, —

- (i) every relevant programme; and
 - (ii) every electronic communication, **including any comments made by a member of the public**, on a website or other social medium and which is capable of being read by a member of the public without being specifically addressed to him or her; but
 - (b) do not include references to inclusion of those matters in a document prepared for use in particular legal proceedings.
- (12) In this section and section 7D “relevant programme” means a programme included in a programme service, within the meaning of the *Communications Act 2021*.

7D Offences in connection with reporting

- (1) If a report is published in contravention of section 7C each of the following persons is guilty of an offence, —
- (a) in the case of a publication of a report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
 - (b) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper;
 - (c) in the case of any other publication, any person publishing it.
- ~~Maximum penalty, — a level 5 fine.~~
Maximum penalty — (summary) a fine of level 5 on the standard scale.
- (2) Proceedings for an offence under this section may be instituted only by or with the consent of the Attorney General.».

12 Abolition of committal proceedings

- (1) Committal proceedings are abolished.
- (2) In consequence the following are repealed —
 - (a) sections 5, 6 and 7 (and the cross-heading preceding section 5);
 - ~~(b) — section 28(3), (5) and (6);~~
 - (c) sections 70 to 72 (and the cross-heading preceding section 70);
 - (d) section 84(4)(c) (and the word “or” immediately preceding it); and
 - (d) in section 114 —

- (i) the definition of “inquiry” in subsection (1); and
 - (ii) subsection (8)(a).
- (3) Schedule 3 to this Act makes further provision in connection with the abolition of committal proceedings

13 Discontinuance of proceedings in courts of summary jurisdiction: section A8 inserted

~~Before section 8 (but after the italic cross heading preceding that section) insert, —~~

For the italic cross-heading preceding section 8, substitute the following cross heading and section —

«Summary proceedings of complaint;»

A8 Discontinuance of proceedings in courts of summary jurisdiction

P1985/23/23

- (1) Where the Attorney General has the conduct of proceedings for an offence, this section applies in relation to the preliminary stages of those proceedings.
- (2) In this section, “preliminary stage” in relation to proceedings for an offence does not include, —
 - (a) any stage of the proceedings after the court has begun to hear evidence for the prosecution at a summary trial of the offence; or
 - (b) any stage of the proceedings after the accused has been sent for trial for the offence.
- (3) Where, at any time during the preliminary stages of the proceedings, the Attorney General gives notice under this section to the ~~Chief Registrar~~ **court** that the Attorney General does not want the proceedings to continue, they are discontinued with effect from the giving of that notice but may be revived by notice given by the accused under subsection (7).
- (4) Where, in the case of a person charged with an offence (“A”) after being taken into custody without a warrant, the Attorney General gives A notice, at a time when no court of summary jurisdiction has been informed of the charge, that the proceedings against him are discontinued, they are discontinued with effect from the giving of that notice.
- (5) The Attorney General must, in any notice given under subsection (3) above, give reasons for not wanting the proceedings to continue.

- (6) On giving any notice under subsection (3) above the Attorney General must inform the accused of the notice and of the accused's right to require the proceedings to be continued; but the Attorney General is not obliged to give the accused any indication of his or her reasons for not wanting the proceedings to continue.
- (7) Where the Attorney General has given notice under subsection (3) above, A must, if A wants the proceedings to continue, give notice to that effect to the ~~Chief Registrar~~ **court** within the prescribed period; and where notice is so given the proceedings are to continue as if no notice had been given by the Attorney General under subsection (3) above.
- (8) Where the ~~Chief Registrar~~ **court** has been so notified by the accused he or she must inform the Attorney General.
- (9) The discontinuance of any proceedings by virtue of this section does not prevent the institution of fresh proceedings in respect of the same offence.».

14 Non-appearance of the accused: plea of guilty: section 11 amended

At the end of section 11 insert —

- « (9) The powers conferred on the court under this section are exercisable by a single justice.».

15 Indication as to plea: ss. 15A and 15B amended

- (1) In section 15A, —
 - (za) in the heading immediately before section 15A, for “Summary trial of offences” substitute «Offences»;
 - (a) in subsection (1) omit “an offence specified in Schedule 2 or” and “triable either way”;
 - (b) in subsection (7) for the words following “proceed” substitute «in accordance with section 18.»;
 - (c) subsection (9) is repealed; and
 - (d) after that subsection insert, —
 - ~~«(10) This section is subject to section 18E.».~~
 - «(10) If in respect of the offence the court receives a notice under section 18E, the preceding provisions of this section shall not apply, and the court shall proceed in relation to the offence in accordance with section 18C or, as the case may be, section 18D.».
- (2) In section 15B, —
 - (a) in subsection (1)(a) omit “an offence specified in Schedule 2 or” and “triable either way”;

- (b) in subsection (4) for the words following “proceed” substitute «in accordance with section 18»;
- (c) subsection (6) is repealed; and
- (d) at the end of the section insert, —
 - ~~«(7) This section is subject to section 18E.».~~
 - «(7) If in respect of the offence the court receives a notice under section 18E, the preceding provisions of this section shall not apply, and the court shall proceed in relation to the offence in accordance with section 18C or, as the case may be, section 18D.».

16 Summary trial of Schedule 2 offences: s. 16 and that Schedule repealed

Section 16 and Schedule 2 are repealed.

17 Committal for sentence — s. 17 amended

- (1) Section 17 is amended as follows.
- (2) In subsection (1A)(a), omit “an offence specified in Schedule 2 or”.
- (3) In subsection (1B)(a), omit “an offence specified in Schedule 2 or”.
- (4) For subsection (6) substitute, —
 - «(6) Where a person is committed for sentence under this section, the clerk of the court must transmit to the court such documents as are prescribed in rules of court.».

18 Summary trial of offences triable either way, — s. 18 replaced by ss. 18 to 18E

For section 18 substitute, —

«18 Decision as to venue

P1980/43/19(1) to (5A))

- (1) ~~In the case of an either-way offence, the court must decide whether~~
A court of summary jurisdiction before whom an accused is charged with an offence triable either way (referred to in this section and in sections 18C and 18D as an “either-way offence”) must decide whether the offence is more suitable for summary trial or trial on information.
- (1A) The accused must be present at the hearing at which the decision described in subsection (1) is made unless —
 - (a) the accused has been excused from attending the hearing; and
 - (b) the accused’s legal representative is present at the hearing and is instructed by the accused in relation to the hearing.

- (2) Before making a decision under this section the court —
- (a) must give the prosecutor an opportunity to inform the court of the accused's previous convictions (if any); and
 - (b) must give both the prosecution and the accused (who is referred to in this section and sections 18A to 18E as "A") an opportunity to make representations as to whether summary trial or trial on information would be more suitable.
- (3) In making a decision under this section, the court must consider, —
- (a) whether the sentence which a court of summary jurisdiction ~~(including the sentence which the High Bailiff could impose by virtue of section 1A)~~ would be adequate; and
 - (b) any representations made by the prosecutor or A under subsection (2)(b).
- (4) Where, —
- (a) A is charged with 2 or more offences; and
 - (b) it appears to the court that the charges for the offences could be joined in the same information or that the offences arise out of the same or connected circumstances,
- subsection (3)(a) has effect as if references to the sentence which a court of summary jurisdiction ~~(including the High Bailiff)~~ would have power to impose for the offence were a reference to the maximum aggregate sentence which such a court would have power to impose for all of the offences taken together.
- (5) In this section "previous conviction" means, —
- (a) a previous conviction by a court in the Island;
 - (b) a previous conviction by a court in any part of the United Kingdom;
 - ~~(c) a previous conviction by a court in a member State of the European Union for a relevant offence under the law of that State;~~
 - ~~(d)~~^(c) a previous finding of guilt in proceedings under the *Armed Forces Act 2006* (of Parliament) (whether before the Court Martial, the Service Civilian Court or any other court or person authorised under that Act to award a punishment in respect of any offence).
- ~~(6) For the purposes of subsection (5)(c), an offence is "relevant" if the offence would constitute an offence under the law of the Island if it were done in the Island at the time when the decision about venue is made.~~

- (6) If, in respect of the offence, the court receives a notice under section 18E (notices in serious or complex fraud cases), the preceding provisions of this section shall not apply, and the court shall proceed in relation to the offence in accordance with section 18C(1).

18A Procedure where summary trial appears more suitable

Drafting (reflects in part P1980/43/20(1) and (2)).

- (1) If the court decides under section 18 that the offence appears to it to be more suitable for summary trial, the following provisions of this section apply.
- (2) The court must explain to A in ordinary language, —
- (a) that it appears to the court more suitable for A to be tried summarily for the offence and accordingly, A will be so tried; but
 - (b) that if A is convicted by the court, A may be committed for sentence under section 17 if the court is of the opinion mentioned in subsection (1A)(b) ~~or (1B)(d)~~ of that section.
- (3) If, in respect of the offence, the court receives a notice under section 18E (notices in serious or complex fraud cases), the preceding provisions of this section shall not apply, and the court shall proceed in relation to the offence in accordance with section 18C(1).

18B Procedure where trial on information appears more suitable

P1980/43/21

- (1) If the court decides under section 18 that the offence appears to it more suitable for trial on information, the court must tell A that the court has decided that it is more suitable for A to be tried on information, and must proceed in relation to the offence in accordance with section 18C ~~or 18D (as appropriate)~~.
- (2) If, in respect of the offence, the court receives a notice under section 18E (notices in serious or complex fraud cases), the preceding provision of this section shall not apply, and the court shall proceed in relation to the offence in accordance with section 18C(1).

18C Sending cases to a Court of General Gaol Delivery: adults

P1998/37/51 and drafting

- (1) Where A (~~being an adult~~) appears or is brought before a court of summary jurisdiction (referred to in this section and section 18D as “the summary court”) charged with an offence and any of the conditions mentioned in subsection (2) is satisfied, the court must send A forthwith to a Court of General Gaol Delivery for trial for the offence.

- (2) Those conditions are, —
- (a) that the offence is an offence triable only on information **for which the sentence is fixed by law**;
 - (b) that the offence is an either-way offence and the summary court is required under section 18B to proceed in relation to the offence in accordance with subsection (1); or
 - (c) that notice is given to the summary court under section 18E (complex fraud) in respect of the offence.
- (3) Where the summary court sends A for trial under subsection (1), it must at the same time send A to a Court of General Gaol Delivery for trial for any either-way or summary offence with which A is charged and which, —
- (a) (if it is an either-way offence) appears to the summary court to be related to the offence mentioned in subsection (1); or
 - (b) (if it is a summary offence) appears to the summary court to be related to the offence mentioned in subsection (1) or to the either-way offence, and which fulfils the requisite condition (as defined in subsection (13)).
- (4) Where A has been sent for trial under subsection (1) and subsequently appears or is brought before a summary court charged with an either-way or summary offence which, —
- (a) appears to that court to be related to the offence mentioned in subsection (1); and
 - (b) (in the case of a summary offence) fulfils the requisite condition,
- the summary court may send A forthwith to a Court of General Gaol Delivery for trial for the either-way or summary offence.
- (5) Where, —
- (a) the summary court sends A for trial under subsection (1) or (3);
 - (b) another adult (“B”) appears or is brought before that court on the same or a subsequent occasion charged jointly with A with an either-way offence; and
 - (c) that offence appears to the summary court to be related to an offence for which A was sent for trial under subsection (1) or (3) above,
- the court must where it is the same occasion, and may where it is a subsequent occasion, send B forthwith to a Court of General Gaol Delivery for trial for the either-way offence.
- (6) Where the court sends B for trial under subsection (5), it must at the same time send B to a Court of General Gaol Delivery for trial for

any either-way or summary offence with which B is charged and which, —

- (a) (if it is an either-way offence) appears to the court to be related to the offence for which that person is sent for trial; and
- (b) (if it is a summary offence) appears to the court to be related to the offence for which that person is sent for trial or to the either-way offence, and which fulfils the requisite condition.

(7) Where, —

- (a) the summary court sends A or B for trial under subsection (1), (3) or (5); and
- (b) a child or young person (“C”) appears or is brought before the court on the same or a subsequent occasion charged jointly with A or B with an offence triable on information for which A or B is sent for trial under subsection (1), (3) or (5), or an either-way offence which appears to the court to be related to that offence,

subject to subsection (8) the court must, if it considers it necessary in the interests of justice to do so, send C forthwith to a Court of General Gaol Delivery for trial for the offence triable on information.

~~(8) Where the court sends C for trial under subsection (7), it may at the same time send C to a Court of General Gaol Delivery for trial for any other offence with which C is charged and which, —~~

- ~~(a) (if it is an offence triable on information) appears to the court to be related to the offence for which C is sent for trial; and~~
- ~~(b) (if it is a summary offence) appears to the court to be related to the offence for which C is sent for trial or to the offence triable only on information, and which fulfils the requisite condition.~~

~~(9) Subsections (7) and (8) are subject to section 19.~~

(8) If C indicates to the summary court that he or she intends to plead guilty to the offences for which C is charged jointly with A or B, the court may instead permit C to enter a plea, and if C pleads guilty —

- (a) commit C to a Court of General Gaol Delivery for sentence; or
- (b) assign the offences in respect of which C has been charged to the youth court for the sentencing of C.

(9) Where the court sends C for trial under subsection (7) or for sentence under subsection (8)(a), it may at the same time send C to a Court of General Gaol Delivery for trial or sentence (as the case

may be) for any other offence with which C is charged and which, —

- (a) (if it is an offence triable on information) appears to the court to be related to an offence for which C is sent for trial or committed for sentence; and
- (b) (if it is a summary offence) appears to the court to be related to the offence for which C is sent for trial or to the offence triable only on information, and which fulfils the requisite condition.

(10) The trial of the complaint charging any summary offence for which a person is sent for trial under this section is to be treated as if the court had adjourned it under section 9 and had not fixed the time and place for its resumption.

(11) In the case of an adult charged with an offence, —

- (a) if the offence satisfies paragraph (c) of subsection (2), the offence must be dealt with under subsection (1) and not under any other provision of this section or section 18D;
- (b) subject to paragraph (a), if the offence is one in respect of which the summary court is required to, or would decide to, send the adult to a Court of General Gaol Delivery under, —
 - (i) subsection (5); or
 - (ii) subsection (6) of section 18D,

the offence must be dealt with under that subsection and not under any other provision of this section or section 18D.

(12) The functions of a court of summary jurisdiction under this section may be discharged by a single justice.

(13) For the purposes of this section an offence “fulfils the requisite condition” if it is punishable with custody or disqualification for holding or obtaining a licence to drive.

18D Sending cases to a Court of General Gaol Delivery: children and young persons

P1998/37/51A and drafting

~~(1)~~ This section is subject to section 19.

~~(2)~~(1) Where a child or young person (“C”) appears or is brought before the summary court charged with an offence (and the court has not acted in accordance with section 18C(8)(a) or (b)) and any of the conditions in subsection ~~(3)~~(2) is satisfied, the court must send C forthwith to a Court of General Gaol Delivery for trial for the offence.

~~(3)~~(2) Those conditions are, —

- (a) that the offence is one of treason or murder;
- (b) that the offence is punishable in the case of an adult with more than 2 years' custody and it appears to the summary court that, if C were to be found guilty of that offence, it ought to be possible to sentence C to such a term of custody;
- (c) that notice is given to the court under section 18E in respect of the offence;
- (d) that the offence is an offence to which section 38 of the *Criminal Justice Act 2001* (sentences extended for licence purposes) applies and it appears to the summary court that, if C were to be found guilty of the offence, the criteria for the imposition of a sentence under that section would be met.

~~(4)~~(3) Where the summary court sends C for trial under subsection ~~(2)~~(1), it may at the same time send C to a Court of General Gaol Delivery for trial for any offence triable on information or summary offence with which C is charged and which, —

- (a) (if it is an offence triable on information) appears to the court to be related to the offence mentioned in subsection ~~(2)~~(1); or
- (b) (if it is a summary offence) appears to the court to be related to the offence mentioned in subsection ~~(2)~~(1) or to the offence triable on information.

~~(5)~~(4) Where C has been sent for trial under subsection ~~(2)~~(1) and subsequently appears or is brought before a court of summary jurisdiction charged with another offence ("the second offence") which appears to the court to be related to the offence mentioned in subsection ~~(2)~~(1) the court may send C forthwith to a Court of General Gaol Delivery for trial for the second offence.

~~(6)~~(5) Where, —

- (a) the court sends C for trial under subsection ~~(2)~~(1) or ~~(4)~~(3); and
- (b) an adult ("A") appears or is brought before the court on the same or a subsequent occasion charged jointly with C with an either-way offence for which C is sent for trial under subsection ~~(2)~~(1) or ~~(4)~~(3), or an either-way offence which appears to the court to be related to that offence,

the court must where it is the same occasion, and may where it is a subsequent occasion, send A forthwith to a Court of General Gaol Delivery for trial for the either-way offence.

~~(7)~~(6) Where the court sends A for trial under subsection ~~(6)~~(5), it must at the same time send A to a Court of General Gaol Delivery for trial

for any offence with which A is charged and which appears to the court to be related to the offence for which A was sent for trial.

(7) The trial of the complaint charging any summary offence for which a person is sent for trial under this section is to be treated as if the court had adjourned it under section 9 and had not fixed the time and place for its resumption.

(8) Where C is charged with an offence, —

- (a) if the offence satisfies any of the conditions in subsection ~~(3)~~(2), the offence must be dealt with under subsection ~~(2)~~(1) and not under any other provision of this section or section 18C;
- (b) subject to paragraph (a), if the offence is one in respect of which the requirements of subsection (7) of section 18C for sending the child or young person to a Court of General Gaol Delivery are satisfied, the offence must be dealt with under that subsection and not under any other provision of this section or section 18C.

~~(9) The functions of a court of summary jurisdiction under this section may be discharged by a single justice.~~

18E Notices in serious or complex fraud cases

P1998/37/51B and drafting

(1) A notice may be given by a designated authority under this section in respect of an offence triable on information if the designated authority is of the opinion that the evidence of the offence charged, —

- (a) is sufficient for the person charged to be put on trial for the offence; and
- (b) reveals a case of fraud of such seriousness or complexity that it is appropriate that the management of the case should without delay be taken over by a Court of General Gaol Delivery.

(2) That opinion must be certified by the designated authority in the notice.

(3) A notice under this section must be given to the ~~High Bailiff~~ court before any summary trial begins.

~~(4) The effect of such a notice is that the functions of the court of summary jurisdiction cease in relation to the case.~~

(4) The effect of such a notice is that the functions of the court of summary jurisdiction cease in relation to the case, except—

- (a) for the purposes of notifying the accused and the Court of General Gaol Delivery of the offence or offences for which a person is sent for trial; and
 - (b) as provided by section 18F.
- (5) A decision to give a notice under this section is not subject to appeal or liable to be questioned in any court (whether a court of summary jurisdiction or not).
- (6) In this section “designated authority” means, —
 - (a) the Attorney General; or
 - (b) an advocate, barrister or solicitor authorised by the Attorney General for the purposes of this section.

18F Provisions supplementing section 18C and 18D

P1998/37/52 and drafting

- (1) Subject to section 3 of the *Bail Act 1952*, the court may send a person for trial under section 18C or 18D —
 - (a) in custody, that is to say, by committing him to custody there to be safely kept until delivered in due course of law; or
 - (b) on bail in accordance with the *Bail Act 1952*, that is to say, by directing him to appear before a Court of General Gaol Delivery for trial.
- (2) Where—
 - (a) the person's release on bail under subsection (1)(b) is conditional on his providing one or more sureties; and
 - (b) in accordance with section 3 of the *Bail Act 1952*, the court fixes the amount in which a surety is to be bound with a view to his entering into his recognisance subsequently in accordance with section 6, 7, 8 or 9 of that Act,

the court shall in the meantime make an order such as is mentioned in subsection (1)(a).
- (3) If the court sends a person for trial under section 18C or 18D other than in open court—
 - (a) it must do so on bail, and
 - (b) that bail is to be—
 - (i) unconditional, if the accused is not already on bail, or is on unconditional bail, in respect of the charge in question, or
 - (ii) if the accused is already on bail subject to conditions in respect of the charge in question, subject to the same conditions.

- (5) A court of summary jurisdiction may adjourn any proceedings under section 18C or 18D and, if it does, so shall remand the accused in custody or on bail.

18G Restrictions on reporting

P1998/37/52A and drafting

- (1) Except as provided by this section, it is unlawful to publish a report of any proceedings to decide on whether an offence is more suitable for summary trial or trial on information (“venue proceedings”) or proceedings for sending an accused to a Court of General Gaol Delivery (“sending proceedings”) in the Island if the report contains any matter other than that permitted by this section.
- (2) A court of summary jurisdiction may, with reference to any venue proceedings or sending proceedings, order that subsection (1) does not apply, or does not apply to a specified extent, to a report of those proceedings.
- (3) Where there is only one accused and the accused objects to the making of an order under subsection (2) –
 - (a) the court may make the order if (and only if) it is satisfied after hearing the representations of the prosecution and the accused, that it is in the interests of justice to do so; and
 - (b) if the order is made, it shall not apply to the extent that a report deals with any such objection or representations.
- (4) Where there are two or more accused and one or more of them objects to the making of an order under subsection (2) –
 - (a) the court may make the order if (and only if) satisfied after hearing the representations of the prosecution and each of the accused that it is in the interests of justice to do so; and
 - (b) if the order is made, it does not apply to the extent that a report deals with any such objection or representations
- (5) Subsection (1) does not apply to the publication of a report of matters after the case against the accused or, if more than one, against each of them, is disposed of.
- (6) Subsection (1) does not apply to a report which contains only one or more of the following matters, –
 - (a) the identity of the court and the name of the justices;
 - (b) the names, ages, home addresses and occupations of the accused;
 - (c) in the case of an accused charged with an offence in respect of which notice has been given to the court under section 18E, any relevant business information;

- (d) the offence or offences, or a summary of them, with which the accused or any of the accused are charged;
 - (e) the names of the advocates in the proceedings;
 - (f) where the proceedings are adjourned, the date and place to which they are adjourned;
 - (g) any arrangements as to bail;
 - (h) whether, for the purposes of the proceedings, representation was provided to the accused or any of the accused under the *Legal Aid Act 1986*.
- (7) The addresses that may be published under subsection (5)(b) are addresses —
 - (a) at any relevant time; and
 - (b) at the time of their inclusion in the publication.
- (8) The following is relevant business information for the purposes of subsection (5)(c) —
 - (a) any address used by the accused for carrying on a business on the accused's own account;
 - (b) the name of any business which the accused was carrying on on the accused's own account at any relevant time;
 - (c) the name of any firm in which the accused was a partner at any relevant time or by which the accused was engaged at any such time;
 - (d) the address of any such firm;
 - (e) the name of any company of which the accused was a director at any relevant time or by which the accused was otherwise engaged at any such time;
 - (f) the address of the registered or principal office of any such company;
 - (g) any working address of the accused in the accused's capacity as a person engaged by any such company.
- (9) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on the publication of a report of any matter.
- (10) In this section references to publication of a report of matters falling within subsection (1) —
 - (a) include references to inclusion of those matters in any speech, writing, relevant programme or other communication in whatever form which is addressed to the public at large or any section of the public, and for this purpose the following are to be treated as so addressed —
 - (i) every relevant programme; and

(ii) every electronic communication, including any comments made by a member of the public, on a website or other social medium, and which is capable of being read by a member of the public without being specifically addressed to him or her; but

(b) do not include references to inclusion of those matters in a document prepared for use in particular legal proceedings.

(11) In this section —

“venue proceedings or sending proceedings” means, in relation to an information charging an offence triable on information —

(a) any proceedings in a court of summary jurisdiction at which matters are considered under any of sections 18 to 18E; and

(b) any proceedings in a court of summary jurisdiction before the court proceeds to consider any matter mentioned in paragraph (a);

“engaged” in subsection (8) means engaged under a contract of service or a contract for services;

“relevant programme” means a programme included in a programme service (within the meaning of section 6 of the *Communications Act 2021*);

“relevant time” means a time when events giving rise to the charges to which the proceedings relate occurred.

18H Offences in connection with reporting

(1) If a report is published in contravention of section 18G each of the following persons is guilty of an offence —

(a) in the case of a publication of a report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;

(b) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper;

(c) in the case of any other publication, any person publishing it.

Maximum penalty — a level 5 fine.

(2) Proceedings for an offence under this section may be instituted only by or with the consent of the Attorney General.

18I Depositors

Paragraphs 4 and 5 of Schedule A1 to the *Criminal Jurisdiction Act 1993* apply in respect of the taking of depositions from witnesses for the purpose of proceedings for an offence for which a person has been sent for trial under section 18C or 18D.».

19 Summary trial of a child or young person: s. 19 amended

- (1) Section 19 is amended as follows.
- (2) In subsection (1)—
 - (a) ~~omit “, other than homicide,”;~~
 - (b) for the words following “unless” to the end of the subsection substitute «~~section 18C(7)(b) or 18D(3)~~ shall deal with the child or young person summarily unless section 18C(7), (8)(a) or (11) or 18D applies.».
- (3) ~~In subsection (2) for “commits” and “commit” substitute «sends» and «send» respectively.~~
- (4) ~~In subsection (3) for paragraph (a) substitute,—~~
 - ~~«(a) a fine not exceeding level 4;».~~
- (3) Omit subsection (2).
- (4) For subsection (3) substitute —
 - «(3) Subject to subsection (4), if on trying a person summarily in pursuance of subsection (1) the court of summary jurisdiction finds the accused guilty (whether or not following a trial), the court may impose such penalty as is permitted by section 1A.
 - (4) The court of summary jurisdiction may, instead of sentencing the person under subsection (3) commit the person in custody or on bail to a Court of General Gaol Delivery for sentence if the conditions set out in subsection (6) are satisfied.
 - (5) The conditions are —
 - (a) the person has been convicted by the court of summary jurisdiction of an offence triable on information; and
 - (b) having obtained further information as to the circumstances of the offence during the trial (if any) the court of summary jurisdiction thinks that greater punishment should be inflicted than the court of summary jurisdiction has power to inflict.
 - (6) An offender so committed shall be committed to a Court of General Gaol Delivery, and the clerk of the court shall notify the Court of General Gaol Delivery, who shall notify the prosecutor and the governor or other person in charge of the place to which the

offender is committed of the date on which the case will be dealt with by that Court.

- (7) Where an offender is so committed, the Court of General Gaol Delivery shall inquire into the circumstances of the case and may deal with the offender in any way in which it could deal with the offender if the offender had just been convicted of the offence on information before the Court.
- (8) Any duty or power which, apart from subsection (7), would fall to be discharged or exercised by the court of summary jurisdiction shall not be so discharged or exercised but shall instead be discharged or may instead be exercised by the Court of General Gaol Delivery.
- (9) Where a person is committed for sentence under this section, the clerk of the court must transmit to the Court of General Gaol Delivery such documents as are prescribed in rules of court.».

20 Right to claim jury trial for certain summary offences: s. 21 repealed

Section 21 and the cross-heading preceding it are repealed.

21 ~~Restriction on fines on children and young persons: s. 27 amended~~

~~(1) Section 27 is amended as follows:~~

- ~~(2) In subsection (1), for all the text after “impose a fine of” substitute “an amount exceeding level 4, the amount of any fine imposed by the court shall not exceed level 4”.~~

21 Deferment of sentence and sentencing: s. 23A inserted and s. 27 repealed

After section 23, insert –

«23A Deferment orders

- (1) This section applies where a person (“P”) who has been convicted is before a court of summary jurisdiction, a report having been provided to the court under section 22.
- (2) Despite section 22(3), the court may make an order (a “deferment order”) deferring the sentencing of P for a period not exceeding 6 months beginning on the date on which the order is made (“deferment period”).
- (3) A deferment order –
 - (a) is to enable the court, when sentencing P, to have regard to P’s conduct after conviction or any change in P’s circumstances;

- (b) may require P to comply with such requirements as the deferment order may specify.
- (4) A deferment order may be made if –
 - (a) a deferment order has not been previously made in respect of the offence;
 - (b) P consents to the making of the deferment order;
 - (c) P undertakes to comply with such requirements as may be specified in the deferment order;
 - (d) the court is satisfied, having regard to the nature of the offence and the character and circumstances of P, that it would be in the interests of justice to make the deferment order.
- (5) A court which makes a deferment order must forthwith give a copy of the order –
 - (a) to P;
 - (b) the probation officer who has been appointed to act as a supervisor to P.
- (6) A court which makes a deferment order shall specify in the order the date on which P is to return to the court for sentencing, and for these purposes, the court is regarded as having adjourned the trial under section 9.
- (7) If a deferment order is made, the probation officer appointed under subsection (5)(b) must –
 - (a) monitor P's compliance with the deferment requirements,
 - (b) report to the court if P has failed to comply with any requirements imposed by the deferment order; and
 - (c) provide the court which deals with P for any offence in respect of which the order was made with such information as the court may require relating to P's compliance with the deferment requirements.
- (8) If the supervisor appointed under subsection (5)(b) has reported to the court that P has failed to comply with any deferment requirements, or if P commits another offence during the deferment period, the court may –
 - (a) issue a summons requiring P to appear before the court at the time and place specified in the summons, or
 - (b) issue a warrant for P's arrest which requires P to be brought before the court at the time and place specified in the warrant.
- (9) If P does not appear on the date specified in the order under subsection (6), the court may –

- (a) issue a summons requiring P to appear before the court at the time and place specified in the summons, or
 - (b) issue a warrant for P's arrest which requires P to be brought before the court at the time and place specified in the warrant.
- (10) Subsection (11) applies where P is being dealt with by a court for any offence in respect of which a deferment order was made, whether –
 - (a) at the end of the period of deferment, in accordance with the deferment order;
 - (b) following P's failure to comply with a deferment requirement; or
 - (c) following P's conviction of an offence during the deferment period.
- (11) The court may deal with P for the offence in any way in which the original court could have dealt with P for the offence if it had not made a deferment order.
- (12) Where the court is dealing with P under subsection (11), the court may deal with P for the offence in any way in which the original court could have dealt with P for the offence if it had not made a deferment order, including committing P to the Court of General Gaol Delivery for sentence under section 17.
- (13) Where a court deals with P by committing P to the Court of General Gaol Delivery under section 17, the power of the Court of General Gaol Delivery to deal with P includes the same power to make a deferment order as if P had just been convicted of the offence on information before it. ».

21A Restriction on fines on children and young persons: s. 27 repealed

Section 27 (restriction on fines on children and young persons) is repealed.

22 Corporations: s. 32 substituted

For section 32 substitute, —

«32 Corporations

- (1) This section sets out modifications to the procedure prescribed for dealing with offences in the courts of summary jurisdiction in the case of corporations.
- (2) Where the offence is an offence which in the case of an adult may be dealt with summarily, the court may deal with the offence summarily.

- (3) Where a corporation is charged before a court of summary jurisdiction with an offence in the case of which an individual may be tried by a Court of General Gaol Delivery, the court may deal with the case summarily (and may do so whether or not the corporation appears).
- (4) A corporation may appear for the purposes of this section by its representative, and any answers to questions put for the purposes of determining the mode of trial may be made on behalf of a corporation by its representative.
- (5) In this section “representative”, in relation to a corporation, means a person duly appointed by the corporation to represent it for the purpose of doing anything which the representative of a corporation may do under this section; but a person so appointed shall not be thereby qualified to act on behalf of the corporation for any other purpose.
- (6) A representative for the purposes of this section may be appointed under hand; and a statement in writing purporting to be signed by a director, manager or secretary of the corporation or by any other person having or being one of the persons having the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section, shall be admissible without further proof as evidence that that person has been so appointed.».

23 Person before summary court in connection with proceedings in Court of General Gaol Delivery: s.33ZA inserted

After section 33 (but before section 33A) insert, —

«33ZA Person brought before summary court in connection with proceedings in Court of General Gaol Delivery

P1980/43/43A

Where a person in custody in pursuance of a warrant issued by a Court of General Gaol Delivery (“the defendant”) with a view to the defendant’s appearance before a Court of General Gaol Delivery is brought before a court of summary jurisdiction in pursuance of section 5(1) of the *Criminal Law Act 1981*, —

- (a) the court of summary jurisdiction must either commit the defendant in custody or release the defendant on bail until the defendant can be brought or appear before a Court of General Gaol Delivery at a time appointed by that court; and
- (b) if the warrant is endorsed for bail, but the defendant is unable to satisfy the conditions endorsed, the court of

summary jurisdiction may vary those conditions if satisfied that it is proper to do so.».

23A Section 30A inserted

After section 30, insert –

«30A Offences committed at sea

[VI p389/29]

- (1) An offence that is triable in the court of summary jurisdictions that is committed –
 - (a) within the seaward limits of the territorial sea adjacent to the Island, or
 - (b) on a British ship whilst at sea but first arriving in the Island after the commission of the offence,
 may be tried and punished as if it had been committed within the Island.
- (2) In a complaint or summons for or relating to an offence referred to in subsection (1) the offence shall be averred to have been committed at sea.
- (3) In this section “British ship” means –
 - (a) a Manx ship within the meaning of the *Merchant Shipping Registration Act 1991*; and
 - (b) any other ship which is a British ship within the meaning of section 2 of the *Merchant Shipping Act 1988* (an Act of Parliament), as it has effect in the United Kingdom.

23B Section 47 amended

In section 47 (costs) –

- (a) in subsection (1), before “on the hearing”, insert « Subject to subsections 1A and 1B.»;
- (b) after subsection (1), insert –
 - «(1A) Subject to the provisions of this or any other Act and to rules of court, the costs of and incidental to all domestic proceedings in a court of summary jurisdiction shall be in the discretion of the court, and the court shall have full power to determine by whom and to what extent the costs are to be paid.
 - (1B) If the complaint is for an order for the variation of an order for the periodic payment of money, or for the enforcement of such an order, the court may, whatever adjudication it makes, order either party to pay the whole or any part of the other’s costs.»;

- (c) after subsection (3), insert –
- «(4) Nothing in this section applies to costs in criminal proceedings (see Part 5 of the Justice Reform Act 2021).».

23C Section 67 amended

In section 67 (proof of convictions), for “court of summary conviction” substitute «court of summary jurisdiction».

23D Section 69 amended

In section 69 (certificate of conviction or order), omit “Clerk of the”.

23E Section 76 amended

In section 76 (forms of complaint etc), in subsection (4), after “issued” insert «or a person authorised by that witness»

24 Limitation of time: s. 75 amended

- (1) Section 75 is amended as follows.
- (2) In subsection (1) after “(2)” insert «or (2A)».
- ~~(3) In subsection (2) after “summary jurisdiction” insert «(whether including the High Bailiff or not)».~~
- (4) After subsection (2) insert, –
 - «(2A) Nothing in, –
 - (a) subsection (1); or
 - (b) subject to subsection (4), any other statutory provision (however framed or worded) which, as regards any offence to which it applies, would, but for this section impose a time-limit on the power of a court of summary jurisdiction ~~(whether including the High Bailiff or not)~~ to try a complaint summarily or impose a limitation on the time for taking summary proceedings,

applies to an offence which is triable summarily and in respect of which **a maximum period of custody that exceeds six months or a maximum fine that exceeds level 5 on the standard scale.**».

Subdivision 4: Other procedural provisions

25 Authentication of court records: s. 79A inserted

After section 79 insert, –

«79A Methods of authenticating court records and other documents

Despite any statutory provision or other rule of law requiring, —

- (a) an order or a record of a decision of a court summary jurisdiction; or
- (b) any other document issued by such a court, or a High Bailiff or a justice,

to be signed by a High Bailiff or a justice, it may instead be authenticated in any manner provided for by rules.».

26 Rules of court: s. 91 amended

- (1) Section 91 is amended as follows.
 - (2) In subsection (1) for “The Clerk of the Rolls” substitute «The Deemsters».
 - (3) After subsection (1) insert, —
 - «(1A) Nothing in the following provisions of this section limits the scope of subsection (1).».
 - (4) In subsection (4)(a) for “the Clerk of the Rolls” substitute «the Deemsters».
 - (5) For subsection (5) substitute —
 - «(5) Rules may make provision —
 - (a) authorising or requiring the use of electronic communications for the purposes of giving specified information in the course of, or otherwise in connection with, proceedings;
 - (b) specifying technical standards to be met in relation to the method and manner of giving such information;
 - (c) specifying the effect of giving (or not giving) information in accordance with standards under paragraph (b).
 - (6) Rules under subsection (5) may also —
 - (a) make provision as to how a requirement for a signature in or in connection with the giving of such information is to be met; and
 - (b) be made so as to apply to any proceedings before the High Bailiff (whether judicial or administrative).
 - (7) Subsections (5) and (6) of section 4 of the *Electronic Transactions Act 2000* (which give an extended meaning to the expression “give information”) apply for the purposes of subsection (5) as they apply for the purposes of that section.
- Tynwald procedure —laying only».

26A Rules of court: s 91 substituted

For section 91 (rules of court) substitute –

«91 Rules of court and court forms

- (1) The Deemsters may make rules of court for regulating the procedure of courts of summary jurisdiction and the procedure in any legal proceedings which under any enactment are to be taken before the High Bailiff or a court of summary jurisdiction (whether judicial or administrative).
Tynwald procedure for any rules made under this Act—laying only
- (2) Rules of court may provide that sections 13 and 80 shall with any necessary modifications apply to any document (other than a notice referred to in section 80(7)) issued or made in relation to proceedings in a court of summary jurisdiction as they apply to a summons.
- (3) The Deemsters may prepare or approve forms for use in proceedings in courts of summary jurisdiction.
- (4) Rules of court may –
 - (a) prescribe the manner in which such forms are to be published; and
 - (b) require the use, in such circumstances or for such purposes as are specified in the rules, of a relevant form so published (including a form published after the making of the rules).
- (5) Rules of court may –
 - (a) assign to youth courts the hearing of applications cognisable by justices or courts of summary jurisdiction if, in the opinion of the Deemsters, it is desirable in the interests of the children and young persons concerned that they be heard by youth courts;
 - (b) modify in relation to youth courts such of the provisions of this Act and of any enactments relating to offences triable on information as regulate procedure; and
 - (c) provide for the allocation of any proceedings to such court of summary jurisdiction as the Chief Registrar thinks convenient, having regard to the nature of the proceedings, the offence to which the proceedings relate, the complexity of the case and any other matter which the Chief Registrar may consider to be relevant in the circumstances .
- (6) Subject to rules of court and any directions of the First Deemster, where any proceedings have been commenced in a court of

summary jurisdiction but the court has not begun to hear evidence in the proceedings, it may, on an application by any party or of its own motion, order that they be transferred to such other court of summary jurisdiction as appears to it more convenient and is specified in the order; and where such an order is made, the proceedings shall be deemed to have been commenced in the court so specified.

(7) Rules of court may make provision —

- (a) authorising or requiring the use of electronic communications for the purposes of giving specified information in the course of, or otherwise in connection with, proceedings;
- (b) specifying technical standards to be met in relation to the method and manner (including methods of authentication) of giving such information;
- (c) specifying the effect of giving (or not giving) information in accordance with standards under paragraph (b);
- (d) specifying how a requirement for a signature in or in connection with the giving of such information is to be met.

(8) Subsections (5) and (6) of section 4 of the *Electronic Transactions Act 2000* (which give an extended meaning to the expression “give information”) apply for the purposes of subsection (7) as they apply for the purposes of that section.

(9) Rules of court may make provision, in respect of proceedings against any person for such offences as may be prescribed in the rules —

- (a) requiring the prosecutor to do such things as may be prescribed for the purpose of securing that the accused or a person representing the accused is furnished with, or can obtain, advance information concerning all, or any prescribed class of, the facts and matters of which the prosecutor proposes to adduce evidence; and
- (b) for requiring a court of summary jurisdiction, if satisfied that any requirement imposed by virtue of paragraph (a) above has not been complied with, to adjourn the proceedings pending compliance with that requirement unless the court is satisfied that the conduct of the case for the accused will not be substantially prejudiced by non-compliance with the requirement.

(10) Rules made under subsection (9)(a)—

- (a) may require the prosecutor to do as provided in the rules either —
 - (i) in all cases; or

- (ii) only if so requested by or on behalf of the accused; and
 - (b) may exempt facts and matters of any prescribed description from any requirement imposed by the rules, and may make the opinion of the prosecutor material for the purposes of any such exemption.
- (11) It shall not be open to a person convicted of an offence to appeal against the conviction on the ground that a requirement imposed by virtue of subsection (9) was not complied with by the prosecutor.
- (12) Nothing in subsections (2) to (11) limits the scope of subsection (1).
- (13) Until the first rules of court are made under this section to regulate the procedure of courts of summary jurisdiction or the procedure in any legal proceedings in respect of a particular matter, the procedure shall be such as the court shall determine in relation to the matter before it.».

27 Live audio and video links for proceedings in the summary courts or before the High Bailiff: s. 91A inserted

After section 91 insert —

“91A Live video and audio links

- (1) Regulations made by the Department of Home Affairs after consultation with the Deemsters ~~may authorise of live audio links~~ may authorise the use of a live audio link or a live video link, —
 - (a) in, or in connection with, prescribed proceedings in a court of summary jurisdiction, and
 - (b) in, or in connection with, prescribed proceedings before the High Bailiff (including proceedings of an administrative character).
- Tynwald procedure – approval required.
- (2) Prescribed proceedings are conducted wholly as audio proceedings if —
 - (a) directions have been given by the court or the High Bailiff (as the case requires) for all of the persons taking part in the proceedings to do so through a live audio link, and
 - (b) all of those persons take part in the proceedings in accordance with those directions.

(3) Prescribed proceedings are conducted wholly as video proceedings if —

- (a) directions have been given by the court or the High Bailiff (as the case requires) for all of the persons taking part in the proceedings to do so through a live video link, and
- (b) all of those persons take part in the proceedings in accordance with those directions.

(4) In this section —

“live audio link”, in relation to a person (P) taking part in prescribed proceedings, is a live telephone link or other arrangement which —

- (a) enables 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;

“live video link”, in relation to a person (P) taking part in prescribed proceedings, is a live television link or other arrangement which —

- (a) enables 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 proceedings who are not in the same location as P to see and hear P; and

“prescribed proceedings” are proceedings, or proceedings of a class, prescribed in or under the regulations.

~~(4)~~ (5) For the purposes of ~~subsection (3)~~ **disregard** ~~subsection (4)~~ **disregard** —

- (a) the extent (if any) to which a person is unable to —
 - (i) see by reason of any impairment of eyesight, or
 - (ii) hear by reason of any impairment of hearing; and
- (b) the effect of any direction or order which provides for one person taking part in proceedings to be prevented by means of a screen or other arrangement from seeing another person taking part in the proceedings.

91B Requirement to attend court: perjury

- (1) A person who takes part in prescribed proceedings in accordance with a direction under section 91A is to be treated as complying

- with any requirement however imposed or expressed for that person to attend or appear before court, or to surrender to the custody of the court, for the purposes of participation in those proceedings.
- (2) A person who takes part in prescribed proceedings in accordance with a live audio link direction or a live video link direction under section 91A is to be treated as present in court for the purposes of those proceedings.
- (3) A statement made on oath by a witness outside the Island and given in evidence through a live audio link or a live video link in accordance with a direction under section 91A is to be treated for the purposes of section 1 of the *Perjury Act 1952* as having been made in the proceedings in which it is given in evidence.».

28 ~~Enforcement—Part VIII amended~~ Enforcement and appeals: Parts VIII and IX amended

- (1) Part VIII (enforcement) is amended as follows.
- (2) After section 94(1)(a) (methods of enforcement) insert, —
 - « (aa) registered or recorded with such a court in connection with the non-payment of a fixed penalty imposed under an enactment;».
- (3) In section 94A (enforcement by attachment of earnings or benefit deduction)—
 - (a) for subsection (2) substitute, —
 - «(2) The powers conferred by subsection (1) may be exercised more than once, and accordingly an order under subsection (1)(a) and an application under subsection (1)(b) may be made at different times, and the making of one does not preclude the making of the other.»;
 - (b) in subsection (3)(a) for “a sum adjudged to be paid by conviction or order of a court” substitute «a relevant sum»;
 - (c) in subsection (4)(a) and (b) for “the sum” substitute «the relevant sum»;
 - (d) in subsection (5) for the words following “in respect of” substitute «any relevant sum»;
 - (e) in subsection (6) for the words from “on or after” to “order of a court” substitute «on or after the amendment of this section by section 28 of the *Justice Reform Act 2021*, a relevant sum is outstanding»;
 - (f) in subsection (9) for “the sum” substitute «the relevant sum»;
 - (g) after subsection (10), insert —

«(11) In this section “relevant sum” also includes a periodical payments order.».

- (4) In section 94B(b) (duty of employer under attachment of earnings order) for “the sum in question” substitute «the relevant sum».
- (5) In section 94C(1)(a) (statement of earnings for attachment of earnings) for “the sum in question” substitute «the relevant sum».
- (6) in section 94E(2) (recovery of sums due by deductions from benefit for “any sum adjudged” to the end of the subsection substitute «a relevant sum».
- (7) In section 94F (disclosure of information in connection with attachment of earnings or application for benefit deductions) —
 - (a) in subsection (1) for “a sum” substitute «a relevant sum»;
 - (b) In subsection (4) for “a sum adjudged to be paid by conviction or order of the court” substitute «a relevant sum»;
 - (c) in subsection (10) for “a sum adjudged to be paid by conviction or order of the court” substitute «a relevant sum».
- (8) In section 95 (committal in default)—
 - (a) for subsections (1) and (2) substitute, —

«(1) If —

 - (a) a court of summary jurisdiction adjudges a sum to be paid on conviction; or
 - (b) a sum is registered or recorded with a court of summary jurisdiction for enforcement as if it were such a sum;

the court may order that, in default of payment, the person liable to pay it (the “liable person”) is to be detained for a term not exceeding that specified in subsection (4).
 - (1A) If the liable person defaults in paying a sum falling within subsection (1)(a) or (b), a justice may issue a warrant committing the liable person to custody for the term specified in the order, but subject to subsection (4).
 - (2) If —

- (a) a liable person has defaulted in paying a relevant sum; and
 - (b) no order has previously been made under subsection (1),

a court of summary jurisdiction may issue a warrant committing the liable person to custody for a term not exceeding that specified in subsection (4).
 - (2A) Before issuing a warrant under subsection (2) in a case falling within subsection (1)(b) the court must inquire into the liable person’s means and must consider —

- (a) whether the sum outstanding may be recovered by any other means; and
 - (b) whether it would be appropriate, with the consent of the liable person, to make a community service order instead of committing the liable person to custody.
- (2B) An inquiry under subsection (2A) must take place in the presence of the liable person unless —
- (a) the liable person appeared at such an inquiry on an earlier occasion; or
 - (b) it is proved to the satisfaction of the court that the liable person was notified of the date, time and place of the hearing in accordance with rules under section 94G.»;
- (b) in subsection (3) for “imprisonment” substitute «custody»;
 - (c) in subsection (4)—
 - (i) for “imprisoned” substitute «detained»;
 - (ia) for “under subsection (2)” substitute «under subsection (1A) or (2)»;
 - (ii) for “6 months” substitute «2 years (but without prejudice to subsection (4A))»;
 - (iii) for “due” substitute «outstanding»; and
 - (iv) for the table substitute the following, —

«Amount of fine etc.	Maximum term
Not over £25	7 days
Over £25 but not over £50	14 days
Over £50 but not over £200	4 weeks
Over £200 but not over £500	8 weeks
Over £500 but not over £1,000	3 months
Over £1,000 but not over £2,000	6 months
Over £2,000 but not over £10,000	12 months
Over £10,000 but not over £50,000	18 months
Over £50,000.	2 years».

- (d) after subsection (4) insert, —
- «(4A) Where —
- (a) the amount by reference to which a term of custody is to be fixed exceeds £100,000; and
 - (b) it appears to the court that it would be appropriate to fix a term in default longer than that provided for in subsection (4),

the court may commit the liable person to a Court of General Gaol Delivery (on bail or in custody) to be dealt with in accordance with section 27 of the *Criminal Jurisdiction Act 1993* as if a Court of General Gaol Delivery had made the order requiring the sum to be paid, and Schedule 1 to that Act applies accordingly.»;

- (e) in subsection (5) for “imprisoned” substitute «detained»;
- (f) in subsection (6) for “prison” substitute «an institution».
- (9) In section 95A (fine defaulters: community service orders) —
 - (a) in subsection (1) for the words following “in paying” substitute «a relevant sum».
 - (b) in subsection (5) for the Table substitute, —

«TABLE		
AMOUNT	MINIMUM HOURS	MAXIMUM HOURS
Not exceeding £400	20 hours	40 hours
Exceeding £400, but not exceeding £1,000	40 hours	60 hours
Exceeding £1,000	60 hours	100 hours.».

- (9A) In section 96 (enforcement of periodical payments orders), in subsection (4), for “the court shall issue a warrant committing him to custody for a term not exceeding 3 months, unless the court is of the opinion that the non-payment of any sum due under the order was not caused by his wilful refusal or culpable neglect” substitute «the court may issue a warrant of commitment committing him to custody for a term not exceeding 3 months where the court is of the opinion that the non-payment of the sum due under the order was caused by his wilful refusal or culpable neglect».
- (9B) In section 98 (allowing time for payment of fine etc), in subsection (2), for “him;” to the end substitute «him.».
- (10) In section 99 (application of money found on defaulter) for subsection (1) substitute, —
 - «(1) A court of summary jurisdiction may order a person before it to be searched if, —
 - (a) such a court has adjudged a person to pay a sum by a conviction or order; or
 - (b) the person is before the court for the purposes of an inquiry into the person’s means in a case falling within section 95(2A) in connection with the registration or recording with such a court of a sum under section 94(1).».
- (10A) In section 101(1) (exercise of mercy in certain cases) for “Her Majesty” substitute «His Majesty».

(10B) In section 102 (enforcement of other orders), in subsection (3)(b), after “not exceeding 2 months” insert «and may suspend such committal until such time and on such conditions, if any, as the court thinks just»;

(11) After section 102 insert, —

«102A Interpretation for this Part

In this Part a reference to a “relevant sum” is a reference to any of the following, —

- (a) a sum adjudged to be paid on conviction;
- (b) a sum adjudged to be paid by or under an order of a court which is enforceable as if it were a sum payable on conviction;
- (c) a sum registered or recorded (in whatever terms) with a court of summary jurisdiction as a sum which is enforceable as if it were a sum payable on conviction-;
- (d) a periodical payments order.

Example for paragraph (c) – a fixed penalty notice issued under Schedule 5A to the *Road Traffic Regulation Act 1985* or section 20A of the *Public Health (Tobacco) Act 2006*.».

(12) In section 109 (appeal by way of case stated), in subsection (4), for “Except in the case of an application made by or under the direction of the Attorney General, a court” substitute «A court».

29 Powers of Deemsters: s.111 amended Part X and Schedule 1 amended

(1) At the end of section 111 add, —

«(3) When exercising jurisdiction under this section in a criminal cause or matter, a Deemster may exercise any power conferred on a High Bailiff.».

(2) After section 112, insert —

«112A Effect of sealed orders etc

Any summons, judgment, order or other document issuing out of a court of summary jurisdiction shall, if sealed or stamped with the seal of the Court, have the same effect as if such summons, judgment, order or document were signed by the High Bailiff or a justice.».

29A Schedule 1 amended

In Schedule 1 (forms of oath) —

- (a) in the Oath of Allegiance, for “Her Majesty Queen Elizabeth the Second” substitute «His Majesty King Charles the Third».

- (b) in the Judicial Oath, for “our Sovereign Lady Queen Elizabeth the Second” substitute «our Sovereign Lord of Man King Charles the Third».

PART 4 — CHANGES TO PROCEDURE OF COURTS OF GENERAL GAOL DELIVERY

30 Criminal Jurisdiction Act 1993 amended

- (1) CJA 1993 is amended as follows.
- (2) In this Part, a reference, without more, —
 - (a) to a numbered section or Part is a reference to the section or Part of CJA 1993 so numbered; or
 - (b) to a numbered Schedule is a reference to the Schedule to that Act which is so numbered.

31 Courts of General Gaol Delivery: s. 1 amended

- (1) Section 1 is amended as follows.
- (2) [Inserted subsection (3A) and substituted subsections (4) and (5)]

31A Commencement of proceedings on information – s. 2 amended

- (1) Section 2 (commencement of proceedings on information) is amended as follows.
- (2) In subsection (1), for “Her Majesty” substitute «His Majesty».
- (3) In subsection (3)(a), for “committal of the defendant” substitute «on the sending of the defendant to a Court of General Gaol Delivery».
- (4) In subsection (4), for “committed” substitute «sent».
- (5) Subsection (6) is repealed.

32 Procedure in connection with offences sent for trial: s. 2A and Sch. A1 inserted

- (1) After section 2 insert, —

«2A Procedure in connection with offences sent for trial

Schedule A1 makes provision about procedure in connection with offences which are sent to a Court of General Gaol Delivery under section 18C or 18D of the 1989 Act.».
- (2) Immediately before Schedule 1 insert, —

«SCHEDULE A1

PROCEDURE IN CONNECTION WITH SENDING OFFENCES TO A
COURT OF GENERAL GAOL DELIVERY

[Section 2A]

1 Regulations ~~Rules~~ of court

P1998/37/Sch. 3, para 1

- (1) ~~After consulting the Deemsters, the Department of Home Affairs must by regulations~~ **The Deemsters must make rules of court** to provide that, where a person is sent for trial under section 18C or 18D of the 1989 Act on any charge or charges, copies of the documents containing the evidence on which the charge or charges are based shall, —

- (a) be served on that person; and
- (b) be given to the ~~Chief Registrar~~ **court**,

by the person having the conduct of the prosecution before the expiry of the period prescribed ~~by the regulations~~ **by the rules**; but the Deemster trying the charge or charges may at his or her discretion extend or further extend that period.

- (2) The ~~regulations~~ **rules** may make provision as to the procedure to be followed on an application for the extension or further extension of a period under sub-paragraph (1).

~~Tynwald procedure for regulations under subparagraph (1) — approval required.~~

2 Application for dismissal of charge

P1998/37/Sch. 3, para 2

- (1) A person who is sent for trial under section 18C or 18D of the 1989 Act on any charge or charges may, at any time, —

- (a) after being served with copies of the documents containing the evidence on which the charge or charges are based; and
- (b) before being arraigned (and whether or not an information has been preferred against the person),

apply orally or in writing to a Deemster for the charge, or any of the charges, in the case to be dismissed.

- (2) The Deemster must dismiss a charge (and accordingly quash any count relating to it in any information preferred against the applicant) which is the subject of any such application if it appears to the Deemster that the evidence against the applicant would not be sufficient for the applicant to be properly convicted.

- (3) No oral application may be made under sub-paragraph (1) unless, —
 - (a) the applicant has given 28 days' written notice to the ~~Chief Registrar~~ **court** of the applicant's intention to make the application; or
 - (b) the Attorney General, or a person authorised by the Attorney General, consents to the making of the application.
- (4) The period of notice required by subparagraph (3)(a) may be varied by rules.
- (5) If the charge, or any of the charges, against the applicant is dismissed, —
 - (a) no further proceedings may be brought on the dismissed charge or charges except by means of the preferment of an information by the Attorney General under section 2(3)(c); and
 - (b) unless the applicant is in custody otherwise than on the dismissed charge or charges, he or she must be discharged.
- (5A) The Attorney General may only prefer an information under subparagraph (5)(a) by the direction of the Court of Appeal or with the consent of a judge of the High Court.**
- (6) Rules of court may make provision for the purposes of this paragraph and may in particular make provision about, —
 - (a) the time or stage in the proceedings at which anything required to be done is to be done (unless the court grants leave to do it at some other time or stage);
 - (b) the contents and form of notices or other documents;
 - (c) the manner in which evidence is to be submitted; and
 - (d) the persons to be served with notices or other material.
- (7) Rules of court made under section 3(2) may make provision as to the manner in which an application is to be made for consent for the preferment of an information under subparagraph (5)(a).**

3 Reporting restrictions

P1998/37/Sch. 3, para 3

- (1) Except as provided by this paragraph, it is not lawful, —
 - (a) to publish in the Island a written report of an application under paragraph 2(1);
 - (b) to include in a relevant programme for reception in the Island a report of such an application; or

- (c) for a person resident in the Island to publish by means of an electronic communication on a website or other social medium a report of such an application,
- if (in any case) the report contains any matter other than that permitted by this paragraph.
- (2) An order that sub-paragraph (1) is not to apply to reports of an application under paragraph 2(1) may be made by the Deemster dealing with the application under that paragraph.
- (3) Where in the case of 2 or more accused, one of them objects to the making of an order under sub-paragraph (2), the Deemster must make the order if, and only if, the Deemster is satisfied, after hearing the representations of the accused, that it is in the interests of justice to do so.
- (4) An order under sub-paragraph (2) shall not apply to reports of proceedings under sub-paragraph (3), but any decision of the Deemster to make or not to make such an order may be contained in reports published or included in a relevant programme before the time authorised by sub-paragraph (5) below.
- (5) It is not unlawful under this paragraph to publish or include in a relevant programme a report of an application under paragraph 2(1) containing any matter other than that permitted by sub-paragraph (8) where the application is successful.
- (6) Where, —
- (a) 2 or more persons were jointly charged; and
- (b) applications under paragraph 2(1) are made by more than one of them,
- sub-paragraph (5) has effect as if for the words “the application is” there were substituted the words “all the applications are”.
- (7) It is not unlawful under this paragraph to publish or include in a relevant programme a report of an unsuccessful application at the conclusion of the trial of the person charged, or of the last of the persons charged to be tried.
- (8) The following matters may be contained in a report published or included in a relevant programme without an order under sub-paragraph (2) before the time authorised by sub-paragraphs (5) and (6), that is to say, —
- (a) the location of the court and the name of the Deemster;
- (b) the names, ages, home addresses and occupations of the accused and witnesses;
- (c) where the application made by the accused under ~~sub-paragraph (1)~~ **paragraph 2(1)** relates to a charge for an

- offence in respect of which notice has been given to the court under section 18E, any relevant business information;
- (d) the offence or offences, or a summary of them, with which the accused is or are charged;
 - (e) the names of the advocates or other legal representatives engaged in the proceedings;
 - (f) where the proceedings are adjourned, the date and place to which they are adjourned; and
 - (g) whether the accused is in custody and, if not, the arrangements as to bail.
- (9) The addresses that may be published or included in a relevant programme under sub-paragraph (8) are addresses, —
- (a) at any relevant time; and
 - (b) at the time of their publication or inclusion in a relevant programme.
- (10) The following is relevant business information for the purposes of sub-paragraph (8) —
- (a) any address used by the accused for carrying on a business on his or her own account;
 - (b) the name of any business which the accused was conducting on his or her own account at any relevant time;
 - (c) the name of any firm in which the accused was a partner at any relevant time or by which the accused was engaged at any such time;
 - (d) the address of any such firm;
 - (e) the name of any company of which the accused was a director at any relevant time or by which the accused was otherwise engaged at any such time;
 - (f) the address of the registered or principal office of any such company;
 - (g) any working address of the accused in his or her capacity as a person engaged by any such company;
- and here “engaged” means engaged under a contract of service or a contract for services.
- (11) If a report is published or included in a relevant programme in contravention of this paragraph, an offence is committed by the following persons, —
- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;

- (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
- (c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of the editor of a newspaper.

Maximum penalty — (summary) a level 5 fine.

- (12) Proceedings for an offence under this paragraph may be instituted only by or with the consent of the Attorney General.
- (13) Sub-paragraph (1) is in addition to, and not in derogation from, the provisions of any other enactment with respect to the publication of reports of court proceedings.
- (14) In this paragraph, —
 - “publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;
 - “relevant programme” means a programme included in a programme service (within the meaning of ~~the Telecommunications Act 1984~~ **section 6 of the Communications Act 2021**);
 - “relevant time” means a time when events giving rise to the charges to which the proceedings relate occurred.

4 Taking depositions

P1998/37/Sch.3 para 4

- (1) Sub-paragraph (2) applies where a justice is satisfied that, —
 - (a) any person in the Island (“the witness”) is likely to be able to make on behalf of the prosecutor a written statement containing material evidence, or produce on behalf of the prosecutor a document or other exhibit likely to be material evidence, for the purposes of proceedings for an offence for which a person has been sent for trial under section 18C or 18D of the 1989 Act by a court of summary jurisdiction; and
 - (b) it is in the interests of justice to issue a summons under this paragraph to secure the attendance of the witness to have the witness’s evidence taken as a deposition or to produce the document or other exhibit.
- (2) In such a case the justice must issue a summons directed to the witness requiring the witness to attend before a justice at the time and place appointed in the summons, and to have the witness’s

evidence taken as a deposition or to produce the document or other exhibit.

- (3) If a justice is satisfied by evidence on oath of the matters mentioned in sub-paragraph (1), and also that it is probable that a summons under sub-paragraph (2) would not procure the result required by it, the justice may instead of issuing a summons issue a warrant to arrest the witness and to bring the witness before a justice at the time and place specified in the warrant.

- (4) If, —

- (a) the witness fails to attend before a justice in answer to a summons under this paragraph;
- (b) the justice is satisfied by evidence on oath that the witness is likely to be able to make a statement or produce a document or other exhibit as mentioned in sub-paragraph (1)(a);
- (c) it is proved on oath, or in such other manner as may be prescribed, that the witness has been duly served with the summons and that a reasonable sum has been paid or tendered to the witness for costs and expenses; and
- (d) it appears to the justice that there is no just excuse for the failure,

the justice may issue a warrant to arrest the witness and to bring him or her before a justice at the time and place specified in the warrant.

- (5) Where, —

- (a) a summons is issued under sub-paragraph (2) or a warrant is issued under sub-paragraph (3) or (4); and
- (b) the summons or warrant is issued with a view to securing that the witness has his or her evidence taken as a deposition,

the time appointed in the summons or specified in the warrant shall be such as to enable the evidence to be taken as a deposition before the relevant date.

- (6) If any person attending or brought before a justice in pursuance of this paragraph refuses without just excuse to have his or her evidence taken as a deposition, or to produce the document or other exhibit, the justice may do one or both of the following, —

- (a) commit the person to custody until the expiration of such period not exceeding one month as may be specified in the warrant or until the witness sooner has his or her evidence taken as a deposition or produces the document or other exhibit;

- (b) impose on the ~~accused~~ **person** a fine not exceeding level 4 on the standard scale.
- (7) A fine imposed under sub-paragraph (6) is deemed, for the purposes of any enactment, to be a sum adjudged to be paid on conviction.
- (8) If, under this paragraph, a person has his or her evidence taken as a deposition, the clerk of the court of summary jurisdiction must, as soon as is reasonably practicable, send a copy of the deposition to the prosecutor and the ~~Chief Registrar~~ **court**.
- (9) If, under this paragraph, a person produces an exhibit which is a document, an officer of the court of summary jurisdiction must, as soon as is reasonably practicable, send a copy of the document to the prosecutor and the ~~Chief Registrar~~ **court**.
- (10) If, under this paragraph, a person produces an exhibit which is not a document, an officer of the court of summary jurisdiction must, as soon as is reasonably practicable, inform the prosecutor and the ~~Chief Registrar~~ **court** of that fact and of the nature of the exhibit.
- (11) In this paragraph, —
 “prescribed” means prescribed by rules of court;
 “the relevant date” means the expiry of the period referred to in paragraph 1(1).

5 Proof of deposition

P1998/37/Sch.3 para 5

- (1) Subject to sub-paragraph (3), sub-paragraph (2) applies where a person has his or her evidence taken as a deposition under paragraph 4.
- (2) Where this sub-paragraph applies the deposition may without further proof be read as evidence on the trial of the accused, whether for an offence for which the accused was sent for trial or for any other offence arising out of the same transaction or set of circumstances.
- (3) Sub-paragraph (2) does not apply if, —
 - (a) it is proved that the deposition was not signed by the justice by whom it purports to have been signed;
 - (b) the court of trial at its discretion orders that sub-paragraph (2) shall not apply; or
 - (c) a party to the proceedings objects to sub-paragraph (2) applying.

6 Disposal of other offences

Drafting

- (1) This paragraph applies where a court of summary jurisdiction has sent a person for trial under section 18C or 18D of the 1989 Act for offences which include a summary offence ("the summary offence").
- (2) The summary offence may be dealt with as if it were for all purposes (including those of any appeal) an offence triable on information, subject to sub-paragraphs (3) and (4).
- (3) The power of a Court of General Gaol Delivery to sentence the defendant shall be limited to the power which a court of summary jurisdiction would have had if it had convicted the defendant of the summary offence.
- (4) The ~~Staff of Government~~ **Appeal**-Division has the like powers to deal on appeal with the summary offence as it has to deal with any other offence on appeal from a Court of General Gaol Delivery, subject to sub-paragraph (5).
- (5) Where an appeal from a Court of General Gaol Delivery has been determined by the Appeal Division and that Division quashes the conviction of the defendant for the offence which is triable either way or which is triable only on information with which the summary offence is linked, but orders a retrial of only the summary offence, the summary offence must be remitted to a court of summary jurisdiction, and, —
 - (a) if the defendant is in custody, he or she may be remanded in custody or on bail until his or her appearance before the court of summary jurisdiction, and
 - (b) if the defendant is on bail, his or her bail may be enlarged to the date on which the defendant is due to appear before the court of summary jurisdiction.».

33 Discontinuance of proceedings after accused sent for trial: s. 2B inserted

After section 2A (inserted by section 32 above) insert, —

«2B Discontinuance of proceedings after accused has been sent for trial

P1985/23/23A

- (1) This section applies where, —
 - (a) the Attorney General has the conduct of proceedings for an offence; and
 - (b) the accused has been sent for trial for the offence.

- (2) Where, at any time before the information is preferred, the Attorney General gives notice under this section to the Chief Registrar that he or she does not want the proceedings to continue, they are discontinued with effect from the giving of that notice.
- (3) The Attorney General shall, in any notice given under subsection (2) above, give reasons for not wanting the proceedings to continue.
- (4) On giving any notice under subsection (2) above the Attorney General shall inform the accused of the notice; but the Attorney General is not obliged to give the accused any indication of his or her reasons for not wanting the proceedings to continue.
- (5) The discontinuance of any proceedings under this section does not prevent the institution of fresh proceedings in respect of the same offence.».

34 Power to join count for summary offence in information: s. 5A inserted

After section 5 insert, —

«5A Power to join count for a summary offence in information

P1988/33/ 40 and drafting

- (1) A count charging a person with a summary offence may be included in an information if the charge, —
 - (a) is founded on the same facts or evidence as a count charging an offence which is triable (otherwise than by virtue of this section) on information; or
 - (b) is part of a series of offences of the same or similar character as an offence so triable which is also charged,
 but only if (in either case) the facts or evidence relating to the offence are disclosed by material which, in pursuance of regulations made under paragraph 1 of Schedule A1 has been served on the person charged.
- (2) Where, by virtue of this section, a count charging an offence is included in an information, the offence is to be tried in the same manner as if it were an offence triable (otherwise than by virtue of this section) on information; but a Court of General Gaol Delivery may only deal with the offender in respect of such an offence in a manner in which a court of summary jurisdiction could have done.».

35 Plea of not guilty: s. 8 amended

[Amended section 8(1)]

36 Determination of guilt by Deemster alone and ancillary matters: ss. 8A to 8E inserted

[Inserted sections 8A to 8D and inserted section 8E, with the exception of section 8E(2) and 8E(3)(c). For the convenience of users the full text of section 8E is reproduced below.]

8E Power to order a pre-trial hearing in serious, complex or lengthy cases

P1987/38/7(1) to (3) (adapted)

- (1) Where it appears to a Deemster that the evidence in relation to a prosecution on information reveals —
 - (a) a case of such complexity;
 - (b) a case of such seriousness; or
 - (c) a case whose trial is likely to be of such length,
 that substantial benefits are likely to accrue from a pre-trial hearing for any of the purposes mentioned in subsection (3), the Deemster may order that a pre-trial hearing is to be held.
- ~~(2) A Deemster may also order that a pre-trial hearing is to be held if an application to which section 8A or 8B applies (applications for trial without jury) is made.~~
- (3) The purposes are those of, —
 - (a) identifying issues which are likely to be material to the determinations and findings which are likely to be required during the trial;
 - (b) if there is to be a jury, assisting their comprehension of those issues and expediting the proceedings before them;
 - ~~(c) determining an application to which section 8C applies;~~
 - (d) assisting the Deemster's management of the trial;
 - (e) considering questions as to the severance or joinder of charges.
- (4) An order that a pre-trial hearing is to be held may be made, —
 - (a) on the application of the prosecutor;
 - (b) on the application of the accused or, if there is more than one, any of them; or
 - (c) of the Deemster's own motion.».

36A Unfitness to plead— s. 9 amended

- (1) Section 9 (unfitness to plead) is amended as follows.
- (2) Subsections (3A), (3D), (4), (5) and (8) are repealed.

- (3) In subsection (8A), omit “in any proceedings in respect of which subsections (3B) and (3C) apply”.

36B Admission of depositions – ss.14 and 15 amended

- (1) In section 14 (Admission of deposition: general) –
- (a) in subsections (1) and (6), for “section 70 of the 1989 Act” substitute «paragraph 4 of Schedule A1»;
 - (b) omit subsection (3) and (5)(a);
- (2) in section 15 (admission of deposition of absent witness) –
- (a) in subsections (1) and (8), for “section 70 of the 1989 Act” substitute «paragraph 4 of Schedule A1»;
 - (b) omit subsection (2) and (7)(a).

37 Supplemental powers of the appeal court: s. 37 amended

[Amended section 37(1)(c)]

38 Criminal appeals in respect of rulings: s. 42A amended

- (1) Section 42A is amended as follows.
- (2) [Amended subsection (2)]
- (3) [Amended subsection (3)]
- (4) [Substituted subsection (7)]

38A Start of trial: s. 42A further amended

In section 42A (criminal appeals in respect of pre-trial rulings), in subsection (7)(b), for “8A, 8B, 8C, 8D or 8E” substitute «8A, 8B or 8C».

39 Powers exercisable by a single judge: s. 43 amended

- (1) Section 43 is amended as follows.
- (2) [Amended subsection (1)]
- (3) [Amended subsections (2) and (3)]
- (4) [Substituted section heading]

39A Section 54B amended

In section 54B (supervision and treatment orders: supplemental), in subsection (5), for “Chief Registrar” substitute «court».

39B Information for libel: s 55 repealed

Section 55 (information for libel) is repealed.

40 Electronic communications in proceedings

- (1) Section 57 is amended as follows.
- (2) Renumber the existing text as subsection (1).
- (3) At the end insert —
 - “(2) Rules under subsection (1) may, in particular, make provision —
 - (a) authorising or requiring the use of electronic communications for the purposes of giving specified information in the course of, or otherwise in connection with, proceedings;
 - (b) specifying technical standards to be met in relation to the method and manner of giving such information;
 - (c) specifying the effect of giving (or not giving) information in accordance with standards under paragraph (b).
 - (3) Rules may also make provision as to how a requirement for a signature in or in connection with the giving of such information is to be met.
 - (4) Subsections (5) and (6) of section 4 of the *Electronic Transactions Act 2000* (which give an extended meaning to the expression “give information”) apply for the purpose of this section as they apply for the purposes of that section.”.

41 Interpretation — section 59 amended

- (1) Section 59 is amended as follows.
- (2) [Amended definition of “custody”]
- (3) [Substituted definition of “jury”]
- (4) [Inserted definition of “justice”]

PART 5 — COSTS IN CRIMINAL PROCEEDINGS**DIVISION 1 — COSTS OUT OF GENERAL REVENUE****42 Defence costs**

P1985/23/16

- (1) Where, —

- (a) a complaint made to a justice of the peace, charging any person with an offence, is not proceeded with; or
- (b) a court of summary jurisdiction dealing summarily with an offence dismisses the complaint,

that court or, in a case falling within paragraph (a), any court of summary jurisdiction, may make an order in favour of the accused for a payment to be made out of the General Revenue in respect of his or her costs (a “defendant’s costs order”).

(2) Where, —

- (a) any person is not tried for an offence for which he or she has been committed or sent for trial; or
- (b) any person is tried on information and acquitted on any count in the information,

a Court of General Gaol Delivery may make a defendant’s costs order in favour of the accused.

(3) Where a person convicted of an offence by a court of summary jurisdiction appeals to the High Court under section 103 of the SJA 1989 (right of appeal against conviction or sentence) and, in consequence of the decision on appeal, —

- (a) the conviction is set aside; or
- (b) a less severe punishment is awarded,

the High Court may make a defendant’s costs order in favour of the accused.

(4) The Appeal Division may make a defendant’s costs order in favour of the accused if that Division, —

- (a) allows an appeal **under sections 30 to 47 of the CJA 1993** against, —
 - (i) conviction;
 - (ii) a verdict of not guilty by reason of insanity; or
 - (iii) a finding under section 9 of the CJA 1993 that the appellant is under a disability, or that he or she did the act or made the omission charged against him or her;
- (b) ~~directs under section 33 of the CJA 1993 the entry of a judgement and verdict of acquittal~~ **section 46(4)(b) of the CJA 1993 the entry of a verdict of acquittal;**
- (c) on an appeal against conviction, —
 - (i) substitutes a verdict of guilty of another offence;
 - (ii) in a case where a special verdict has been found, orders a different conclusion on the effect of that verdict to be recorded; or

- (iii) is of the opinion that the case falls within paragraph (a) or (b) of section 35(1) of the CJA 1993 (cases where a finding of insanity or unfitness to plead is substituted);
 - (d) on an appeal under ~~that Part~~ **sections 30 to 47 of the CJA 1993** against sentence, exercises its powers under 33(4) of that Act (powers where the court considers that the appellant should be sentenced differently for an offence for which he was dealt with by the court below); or
 - (e) allows, to any extent, an appeal under ~~section 36 of that Act~~ **section 30(2) or 30(3) of the CJA 1993** (appeal against order made in cases of insanity or unfitness to plead).
- (5) The Appeal Division may also make a defendant's costs order in favour of the accused on an appeal under 42A of the CJA 1993.
- (6) The Appeal Division may also make a defendant's costs order in favour of the accused if, under section 24 of the *High Court Act 1991*, the Appeal Division determines an application for leave to appeal to Her Majesty in Council in a criminal cause or matter.
- (7) A defendant's costs order shall, subject to the following provisions of this section, be for the payment out of the General Revenue, to ~~the individual~~ **the person** in whose favour the order is made, of such amount as the court considers reasonably sufficient to compensate him for ~~any expenses~~ **any costs and expenses** properly incurred by ~~the individual~~ **the person** in the proceedings.
- (8) Where the court considers that there are circumstances that make it inappropriate for the accused to recover the full amount mentioned in subsection (7), a defendant's costs order must be for the payment out of the General Revenue of such lesser amount as the court considers just and reasonable.
- (9) Subsections (7) and (8) have effect subject to, —
 - (a) section 43, and
 - (b) regulations under section 48(2)(d).
- (10) When making a defendant's costs order, the court must fix the amount to be paid out of the General Revenue in the order if it considers it appropriate to do so and, —
 - (a) the accused agrees the amount; or
 - (b) subsection (8) applies.
- (11) Where the court does not fix the amount to be paid out of the General Revenue in the order, —
 - (a) it must describe in the order any reduction required under subsection (8); and

- (b) the amount must be fixed by means of a determination made by or on behalf of the court in accordance with procedures specified in rules of court.
- (12) Subsection (7) shall have effect, in relation to any case falling within subsection (1)(a) or (2)(a), as if for the words “in the proceedings” there were substituted the words “in or about the defence”.
- (13) Where a person ordered to be retried is acquitted at the retrial, the costs which may be ordered to be paid out of the General Revenue under this section shall include, —
 - (a) any costs which, at the original trial, could have been ordered to be so paid under this section if he or she had been acquitted; and
 - (b) if no order was made under this section in respect of his or her expenses on appeal, any sums for the payment of which such an order could have been made.

43 Legal costs

P1985/23/16A

- (1) A defendant’s costs order may not require the payment out of the General Revenue of an amount that includes an amount in respect of the accused’s legal costs, subject to the following provisions of this section.
- (2) Subsection (1) does not apply where condition A, B, or C is met.
- (3) Condition A is that the accused is an individual and the order is made under, —
 - (a) section 42(1);
 - (b) section 42(3); or
 - (c) 42(4)(a)(ii) or (iii) or (e).
- (4) Condition B is that the accused is an individual and the legal costs were incurred in proceedings in a court below which were, —
 - (a) proceedings in a court of summary jurisdiction; or
 - (b) proceedings on an appeal to Appeal Division under section 103 of the SJA 1989 (right of appeal against conviction or sentence).
- (5) Condition C is that, —
 - (a) the accused is an individual;
 - (b) the order is made under section 42(2);
 - (c) the legal costs were incurred in relevant proceedings in a Court of General Gaol Delivery, and
 - (d) ~~the Chief Registrar has made a determination~~ **a relevant authority (within the meaning of the Legal Aid Act 1986) has made a determination** of financial ineligibility in relation to the accused

and those proceedings (and condition C continues to be met if the determination is withdrawn).

- (6) The Treasury may by regulations make provision about exceptions from the prohibition in subsection (1), including, —
 - (a) provision amending this section by adding, modifying or removing an exception; and
 - (b) provision for an exception to arise where a determination has been made by a person specified in the regulations.

Tynwald procedure – approval required.

- (7) Where a court makes a defendant's costs order requiring the payment out of the General Revenue of an amount that includes an amount in respect of legal costs, the order must include a statement to that effect.
- (8) Where, in a defendant's costs order, a court fixes an amount to be paid out of the General Revenue that includes an amount in respect of legal costs incurred in proceedings, the latter amount must not exceed an amount specified by regulations made by the Treasury.

Tynwald procedure – approval required.

- (9) In this section, —
 - (a) “legal costs” means fees, charges, disbursements and other amounts payable in respect of advocacy services or litigation services including, in particular, expert witness costs;
 - (b) “advocacy services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right of audience in relation to any proceedings, or contemplated proceedings, to provide;
 - (c) “expert witness costs” means amounts payable in respect of the services of an expert witness, including amounts payable in connection with attendance by the witness at court or elsewhere; and
 - (d) “litigation services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right to conduct litigation in relation to proceedings, or contemplated proceedings, to provide.

- (10) In subsection (5)—

“determination of financial ineligibility”, in relation to an individual and proceedings, means a determination under the *Legal Aid Act 1986* that the individual's financial resources are such that the individual is not eligible for representation under ~~section 2~~ **Part II** of that Act for the purposes of the proceedings;

“relevant proceedings in a Court of General Gaol Delivery” means any of the following, —

- (a) proceedings in a Court of General Gaol Delivery in respect of an offence for which the accused has been sent by a court of summary jurisdiction to a Court of General Gaol Delivery for trial;
- (b) proceedings in a Court of General Gaol Delivery relating to an offence in respect of which an information has been preferred by the Attorney General under section 2(3)(c) of the CJA 1993;
- (c) proceedings in a Court of General Gaol Delivery following an order by the Appeal Division or the Judicial Committee of the Privy Council for a retrial.

DIVISION 2 — OTHER PROVISIONS ON COSTS

44 Award of costs against accused

P1985/23/18

- (1) Where, —
 - (a) any person is convicted of an offence before a court of summary jurisdiction; or
 - (b) any person is convicted of an offence before a Court of General Gaol Delivery,

the court may make such order as to the costs to be paid by the accused to the prosecutor as it considers just and reasonable.
- (2) Where the Appeal Division dismisses, —
 - (a) an appeal or application for leave to appeal under section 30 of the CJA 1993;
 - (b) an application by the accused for leave to appeal to ~~Her Majesty~~ **His Majesty** in Council under section 24 of the *High Court Act 1991*;
 - (c) an appeal or application for leave to appeal under section 42A of the CJA 1993,
 - (d) **an appeal or application for leave to appeal under section 103 of the SJA 1989,**

it may make such order as to the costs to be paid by the accused, to such person as may be named in the order, as it considers just and reasonable.
- (3) Where the Appeal Division reverses or varies a ruling on an appeal under section 42A of the CJA 1993, it may make such order as to the costs to be paid by the accused, to such person as may be named in the order, as it considers just and reasonable.
- (4) The amount to be paid by the accused in pursuance of an order under this section shall be specified in the order.
- (5) Where any person under the age of 18 is convicted of an offence before a court of summary jurisdiction, the amount of any costs ordered to be paid

by the accused under this section must not exceed the amount of any fine imposed on the accused.

- (6) Costs ordered to be paid under subsection (2) or (3) may include the reasonable cost of any transcript of a record of proceedings made in accordance with rules of court.

45 Provision for orders as to costs in other circumstances

P1985/23/19

- (1) The Treasury may by regulations make provision empowering courts of summary jurisdiction, Courts of General Gaol Delivery and the Appeal Division, in any case where the court is satisfied that one party to criminal proceedings has incurred costs as a result of an unnecessary or improper act or omission by, or on behalf of, another party to the proceedings, to make an order as to the payment of those costs.
- (2) Regulations made under subsection (1) may, in particular, —
 - (a) allow the making of such an order at any time during the proceedings;
 - (b) make provision as to the account to be taken, in making such an order, of any other order as to costs which has been made in respect of the proceedings or of whether, for the purposes of the proceedings, representation has been provided under the *Legal Aid Act 1986*;
 - (c) make provision as to the account to be taken of any such order in the making of any other order as to costs in respect of the proceedings; and
 - (d) contain provisions similar to those in section 44(4) and (5) of this Act.
- (3) The Treasury may by regulations make provision for the payment out of the General Revenue, in such circumstances and in relation to such criminal proceedings as may be specified, of such sums as appear to the court to be reasonably necessary, —
 - (a) to compensate any witness in the proceedings, and any other person who in the opinion of the court necessarily attends for the purpose of the proceedings otherwise than to give evidence, for the expense, trouble or loss of time properly incurred in or incidental to that person's attendance;
 - (b) to cover the proper expenses of an interpreter who is required because of the accused's lack of English;
 - (c) to compensate a duly qualified medical practitioner who, —
 - (i) makes a report otherwise than in writing for the purpose of ~~section 23 of the SJA 1989 or section 19(4) or 54C(5) of the CJA 1993 (remand for medical examination)~~ **section 23 of the**

SJA 1989 (remand for medical reports), section 24 of the CJA 1993 (power to adjourn for reports), section 19(4) of the CJA 1993 (evidence of mental disorder) or section 54C(5) of the CJA 1993 (power to make hospital and limitation directions); or

- (ii) makes a written report to a court in pursuance of a request within subsection (6) below,

for the expenses properly incurred in or incidental to the medical practitioner's reporting to the court.

- (4) In relation to a sum that may be required to be paid out of the General Revenue under regulations under subsection (3)—
 - (a) the requirement under that subsection for the sum to be such sum as the court considers reasonably necessary to cover or compensate for expenses, fees, costs, trouble or losses is subject to regulations made under ~~section 48(2)~~ **section 48(2)(d)**, and
 - (b) regulations under subsection (3) may make provision accordingly.
- (5) In subsection (3)(a) "attendance" means attendance at the court or elsewhere.
- (6) A request is within this subsection if, —
 - (a) it is a request to a registered medical practitioner to make a written or oral report on the medical condition of an offender or defendant; and
 - (b) it is made by a court, —
 - (i) for the purpose of determining whether or not to include in a probation order ~~or a community service order~~ a requirement for the treatment of the mental condition of an offender, or make an order under Schedule 2A to the SJA 1989 or section 54 of the CJA 1993 (hospital orders and guardianship orders) or otherwise for the purpose of determining the most suitable method of dealing with an offender; or
 - (ii) in exercise of the powers conferred by section 23 of the SJA 1989 or ~~section 19(4) or 54C(5) of the CJA 1993 (remand of a defendant for medical examination)~~ **or section 24 of the CJA 1993**.
- (7) The Appeal Division may order the payment out of the General Revenue of such sums as appear to it to be reasonably sufficient to compensate an appellant who is not in custody and who appears before it on, or in connection with, his or her appeal under the CJA 1993.
- (8) Subsection (7) has effect subject to regulations under section 48(2)(d).
- (9) An order under subsection (7) may not require the payment out of the General Revenue of a sum that includes a sum in respect of legal costs (as

defined in section 43), except where regulations made by the Treasury provide otherwise.

- (10) Regulations under subsection (9) may, in particular, include, —
- (a) provision for an exception to arise where a determination has been made by a person specified in the regulations,
 - (b) provision requiring the court, when it orders the payment of a sum that includes a sum in respect of legal costs, to include a statement to that effect in the order, and
 - (c) provision that the court may not order the payment of a sum in respect of legal costs exceeding an amount specified in the regulations.
- (11) The Treasury may by regulations provide that any provision made by or under this Part which would not otherwise apply in relation to any category of proceedings in which an offender is before a court of summary jurisdiction or a Court of General Gaol Delivery shall apply in relation to proceedings of that category, subject to any specified modifications.

Tynwald procedure **for regulations under this section** — approval required.

46 Costs against legal representatives

P1985/23/19A

- (1) In any criminal proceedings, —
- (a) the Appeal Division;
 - (b) a Court of General Gaol Delivery; or
 - (c) a court of summary jurisdiction,
- may disallow, or (as the case may be) order the legal representative concerned to meet, the whole of any wasted costs or such part of them as may be determined in accordance with regulations.
- (2) Regulations must provide that a legal representative against whom action is taken by a court of summary jurisdiction or a Court of General Gaol Delivery under subsection (1) may appeal to the Appeal Division.
- (3) In this section, —
- “legal representative”, in relation to any proceedings, means a person who is exercising a right of audience, or a right to conduct litigation, on behalf of any party to the proceedings;
- “regulations” means regulations made by the Treasury; and
- “wasted costs” means any costs incurred by a party, —
- (a) as a result of any improper, unreasonable or negligent act or omission on the part of any representative or any employee of a representative; or

- (b) which, in the light of any such act or omission occurring after they were incurred, the court considers it is unreasonable to expect that party to pay.

Tynwald procedure – approval required.

47 Provision for award of costs against third parties

P1985/23/19B

- (1) The Treasury may by regulations make provision empowering ~~summary courts of summary jurisdiction, Courts of General Gaol Delivery and the Staff of Government~~ **courts of summary jurisdiction, Courts of General Gaol Delivery and the Appeal** Division to make a third party costs order if the condition in subsection (3) is satisfied.
- (2) A “third party costs order” is an order as to the payment of costs incurred by a party to criminal proceedings by a person who is not a party to those proceedings (“the third party”).
- (3) The condition is that –
 - (a) there has been serious misconduct (whether or not constituting a contempt of court) by the third party; and
 - (b) the court considers it appropriate, having regard to that misconduct, to make a third party costs order against him or her.
- (4) Regulations made under this section may, in particular –
 - (a) specify types of misconduct in respect of which a third party costs order may not be made;
 - (b) allow the making of a third party costs order at any time;
 - (c) make provision for any other order as to costs which has been made in respect of the proceedings to be varied on, or taken account of in, the making of a third party costs order;
 - (d) make provision for account to be taken of any third party costs order in the making of any other order as to costs in respect of the proceedings.
- (5) Regulations made under this section in relation to courts of summary jurisdiction and Courts of General Gaol Delivery must provide that the third party may appeal to the Appeal Division against a third party costs order made by such a court.

Tynwald procedure – approval required.

DIVISION 3 – GENERAL

48 Regulations

P1985/23/20

- (1) The Treasury may make regulations for carrying this Part into effect.

- (2) The Treasury may by regulations, —
- (a) make provision as to the amounts that may be ordered to be paid out of the General Revenue in pursuance of a costs order, whether by specifying rates or scales or by making other provision as to the calculation of the amounts;
 - (b) make provision as to the circumstances in which and conditions under which such amounts may be paid or ordered to be paid;
 - (c) make provision requiring amounts required to be paid out of the General Revenue by a costs order to be calculated having regard to regulations under paragraphs (a) and (b);
 - (d) make provision requiring amounts required to be paid to a person out of the General Revenue by a relevant costs order to be calculated in accordance with such regulations (whether or not that results in the fixing of an amount that the court considers reasonably sufficient or necessary to compensate the person); and
 - (e) make provision as to the review of determinations of amounts required to be paid out of the General Revenue by costs orders.

This subsection does not limit the scope of subsection (1).

- (3) In subsection (2)(d) “relevant costs order” means a costs order other than so much of a costs order made by the Judicial Committee of the Privy Council as relates to expenses, fees, costs, trouble or losses incurred in proceedings before the Judicial Committee.
- (4) The Treasury may by regulations make provision for the recovery of sums paid under **Part II of the Legal Aid Act 1986** in cases where, —
- (a) a costs order has been made against a person who is a party to proceedings; and
 - (b) the person in whose favour the order was made is a legally assisted person.
- (5) Regulations made under subsection (4) may, in particular, —
- (a) require the person mentioned in paragraph (a) of that subsection to pay sums due under the costs order in accordance with directions given by the Treasury (either generally or in respect of the particular case); and
 - (b) enable the Treasury to enforce those directions in cases to which they apply.

Tynwald procedure for regulations under this section, — approval required.

- (6) **The Treasury must consult with the Deemsters before making regulations under this Part.**

49 Interpretation, etc.

(1) In this Part, —

“**defendant’s costs order**” has the meaning given in section 42 of this Act;

“**legally assisted person**”, in relation to any proceedings, means a person to whom advice or representation is provided under Part II of the *Legal Aid Act 1986*;

“**proceedings**” includes, —

- (a) proceedings in any court below; and
- (b) in relation to the determination of an appeal by any court, any application made to that court for leave to bring the appeal; and

“**witness**” means any person properly attending to give evidence, whether or not he or she gives evidence or is called at the instance of one of the parties or of the court, but does not include a person attending as a witness to character only unless the court has certified that the interests of justice required his or her attendance.

(2) Except as provided by or under this Part, no costs shall be allowed on the hearing or determination of, or of any proceedings preliminary or incidental to, an appeal to the Appeal Division in a criminal cause or matter.

(3) For the purposes of sections 42 and 43 of this Act, the costs of any party to proceedings shall be taken to include the expense of compensating any witness for the expenses, trouble or loss of time properly incurred in or incidental to the witness’s attendance.

(4) Where one party to any proceedings is a legally assisted person then, —

- (a) for the purposes of Division 1, his or her costs shall be taken not to include the cost of advice or representation provided to the person under arrangements made under Part II of the *Legal Aid Act 1986*, except any sum paid or payable by way of contribution by the accused towards the costs of such advice or representation; and
- (b) for the purposes of Division 2, his or her costs shall be taken to include the cost of such advice or representation.

(5) Where, in any proceedings in a criminal cause or matter or in either of the cases mentioned in subsection (6), an interpreter is required because of the accused’s lack of English, the expenses properly incurred on his or her employment shall not be treated as costs of any party to the proceedings.

(6) The cases are, —

- (a) where a complaint charging the accused with an offence is laid before a justice, but not proceeded with, and the expenses are incurred on the employment of the interpreter for the proceedings on the complaint; and

- (b) where the accused is sent for trial, but not tried, and the expenses are incurred on the employment of the interpreter for the proceedings in a Court of General Gaol Delivery.

Here “justice” means a justice of the peace or a High Bailiff.

50 Amendment and repeals consequent on provision made by this Part

- (1) At the end of section 47 of SJA 1989 add, —
- « (4) Nothing in this section applies to costs in criminal proceedings (see Part 5 of the *Justice Reform Act 2021*).».
- (1A) At the end of section 107 (costs) of SJA 1989 add, -
- «(3) Nothing in this section applies to costs in criminal proceedings (see Part 5 of the *Justice Reform Act 2021*).»
- (2) In consequence of the provision made by this Part the following are repealed, —
- (a) the cross-heading before section 28 and sections 28, 29 and 107 of SJA 1989; and
- ~~(b) sections 48 to 53 of CJA 1993.~~
- (b) the cross-heading before section 28 and sections 48 to 53.

PART 6 — CAUTIONING OF OFFENDERS

DIVISION 1 — INTRODUCTION

51 Introduction

Drafting

- (1) This Part makes provision about the cautioning of offenders.
- (2) Division 2 deals with unconditional cautions (sometimes called simple cautions).
- (3) Division 3 deals with cautions to which conditions are attached (conditional cautions).
- (4) Division 4 deals with available remedies and out-of-court disposals of anti-social behaviour.
- (5) Division 5 deals with consequential amendments.

52 Interpretation

P2003/44/27 and drafting

In this Part —

“anti-social behaviour” means behaviour occurring in circumstances in which harassment, alarm or distress is caused by the perpetrator to one or more persons not of the same household as the perpetrator;

“appropriate adult”, in relation to a child or young person, means —

- (a) a person having parental responsibility for the child or young person;
- (b) if the child or young person is in the care of the Department of Health and Social Care, a person representing that Department; or
- (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is neither a constable nor a person employed by the police;

“authorised person” means —

- (a) a constable;
- (b) an officer authorised for the purposes of this Part by a Department or a Statutory Board;
- (c) a person authorised for the purposes of this Part by the Attorney General; or
- (d) a person authorised for the purposes of this Part by a body prescribed by order made by the Department;

Tynwald procedure for an order under paragraph (d) — approval required.

“caution” (without qualification) means a conditional or unconditional caution;

“child” and **“young person”**, for the sake of clarity, have the meanings given in paragraph 1 of the Schedule to the *Interpretation Act 2015*;

“conditional caution”: see section 57(2);

“the offender” has the meaning given by section 55 or 57;

“police detention” has the meaning given by section 81(2) of PPPA 1998;

“unconditional caution”: see ~~section 55(2)~~ **section 55(3)**;

“victim” means the particular person (whether an individual, a legal person or an unincorporated body) who appears, to the person dealing with the matter, to have been affected, or principally affected, by another person’s conduct giving rise to the proposed caution or disposal;

~~**“youth caution”** means a caution, administered under Part 6 to a child over the age of criminal responsibility or a young person;~~

“youth caution” has the meaning given by section 65;

“youth conditional caution” has the meaning given by section 65.

53 Circumstances in which a caution may not be given

Drafting

A caution may not be given in respect of an offence for which the sentence is fixed by law.

54 Duty to consult victims

Drafting

- (1) Before deciding whether a caution (either unconditional or conditional) is to be administered to an offender, an authorised person must —
 - (a) take reasonable steps to consult the victim (if any) of the offence in respect of which it is proposed to administer the caution; and
 - (b) take such other steps as may be required by a code of practice under section 63.
- (2) After a caution has been administered in respect of the offence, the authorised person must —
 - (a) take reasonable steps to inform the victim (if any) —
 - (i) that it has been administered; and
 - (ii) of any conditions imposed; and
 - (b) take such other steps as may be required by a code of practice under section 63.

DIVISION 2 — UNCONDITIONAL CAUTIONS**55 Unconditional cautions**

Drafting

- (1) An authorised person may administer an unconditional caution to a child over the age of criminal responsibility, a young person or a person aged 18 or over (“the offender”) if all 5 of the requirements in section 56 are satisfied, but subject to subsection (2).
- (2) An unconditional condition may be given to a child over the age of criminal responsibility or a young person only in the presence of an appropriate adult.
- (3) In this Part “unconditional caution” means a caution, —
 - (a) administered in respect of an offence committed by the offender; and
 - (b) to which no conditions are attached.
- (4) For the sake of clarity, this Division is not to be taken to cast doubt on the validity of any caution administered before it comes into operation.

56 Unconditional cautions: the 5 requirements

Drafting

- (1) The first requirement is that the authorised person has evidence that the offender has committed the offence.
- (2) The second requirement is that the authorised person decides—
 - (a) that there is sufficient evidence to charge the offender with the offence; and
 - (b) that an unconditional caution should be administered to the offender in respect of the offence.
- (3) The third requirement is that the offender admits to the authorised person that the offender committed the offence.
- (4) The fourth requirement is that the authorised person explains the effect of the caution to the offender.
- (5) The fifth requirement is that the offender signs a document which contains—
 - (a) details of the offence;
 - (b) an admission that the offender committed the offence;
 - (c) the consent of the offender to being cautioned; and
 - (d) an explanation that the caution may be taken into account should the offender subsequently be convicted of an offence.

DIVISION 3 — CONDITIONAL CAUTIONS**57 Conditional cautions**

P2003/44/22 and drafting

- (1) An authorised person may give a conditional caution to a child over the age of criminal responsibility, a young person or a person aged 18 or over (“the offender”) if all 5 of the requirements in section 56 are satisfied, but subject to subsection (2).
- (2) A conditional caution may be given to a child over the age of criminal responsibility or a young person only in the presence of an appropriate adult.
- (3) In this Part “**conditional caution**” means a caution which is given in respect of an offence committed by the offender and which has conditions attached to it with which the offender must comply.
- (4) The conditions which may be attached to such a caution are those which have any or all of the following objects—
 - (a) facilitating the rehabilitation of the offender;

- (b) ensuring that the offender makes reparation for the offence (including paying compensation not exceeding a sum prescribed by regulations to a victim of the offending);
- (c) punishing the offender.

Tynwald procedure for regulations under paragraph (b) – approval required.

- (5) The conditions which may be attached to a conditional caution include a condition that the offender attend at specified places and at specified times.

Here “specified” means specified in the condition.

- (6) Conditions attached by virtue of subsection (4) may not require the offender to attend for more than 100 hours in total, not including any attendance required by conditions attached for the purpose of facilitating the offender’s rehabilitation.
- (7) The Department may by order amend subsection (6) by substituting a different number of hours.

Tynwald procedure – approval required.

- (8) A conditional caution given to a relevant offender may have conditions attached to it that have either or both of the objects mentioned in subsection (9) (whether or not in addition to conditions with one or more of the objects mentioned in subsection (4)).
- (9) The objects are, –
 - (a) bringing about the departure of the relevant offender from the Island;
 - (b) ensuring that the relevant offender does not return to the Island for a period of time.

(9A) An authorised person –

- (a) must consult the Isle of Man Immigration Office before giving a conditional caution to a relevant offender that would bring about the departure of the relevant offender from the Island; and
 - (b) must not give such a conditional caution if the Isle of Man Immigration Office notifies the authorised person that the offender is subject to control under the Immigration Acts (within the meaning of Section 61 of the UK Borders Act 2007 (of Parliament), as it applies to the Island²).
- (10) If a relevant offender is given a conditional caution with a condition attached to it with the object of ensuring that the offender does not return to the Island for a period of time, the expiry of that period does not of itself give rise to any right on the part of the offender to return to the Island.

² See SI 2008/680, as amended.

- (11) In this section “relevant offender” means, —
- (a) an offender in respect of whom an exclusion order under the *Criminal Justice (Exclusion of Non-Resident Offenders) Act 1998* might be made if he or she were convicted of the offence for which the conditional caution is to be given;
 - (b) an offender for whose removal from the Island directions have been given under, —
 - (i) Schedule 2 to the *Immigration Act 1971* (of Parliament); or
 - (ii) section 10 of the *Immigration and Asylum Act 1999* (of Parliament); or
 - (c) an offender against whom a deportation order under section 5 of the *Immigration Act 1971* (of Parliament) is in force.

Here references to provisions of the *Immigration Acts* (within the meaning given to that term by section 61 of the *UK Borders Act 2007* (of Parliament)) are to those provisions as they apply in the Island.

58 Conditional caution: the 5 requirements

P2003/44/23

- (1) The first requirement is that the authorised person has evidence that the offender has committed the offence.
- (2) The second requirement is that the authorised person decides —
 - (a) that there is sufficient evidence to charge the offender with the offence; and
 - (b) that a conditional caution should be administered to the offender in respect of the offence.
- (3) The third requirement is that the offender admits to the authorised person that the offender committed the offence.
- (4) The fourth requirement is that the authorised person explains the effect of the conditional caution to the offender and warns the offender that failure to comply with any of the conditions attached to the caution may result in the offender being prosecuted for the offence.
- (5) The fifth requirement is that the offender signs a document which contains—
 - (a) details of the offence;
 - (b) an admission that the offender committed the offence;
 - (c) a statement that —
 - (i) the effect of a conditional caution for the offence has been explained to the offender; and
 - (ii) the warning mentioned in subsection (4) has been given to the offender;

- (d) the consent of the offender to being given the conditional caution;
- (e) the conditions attached to the caution; and
- (f) an explanation that the caution may be taken into account should the offender subsequently be convicted of an offence.

59 Variation of conditions

[P2003/44/23B]

An authorised person may, with the consent of the offender, vary the conditions attached to a conditional caution by, —

- (a) modifying or omitting any of the conditions;
- (b) adding a condition.

60 Failure to comply with conditions

[P2003/44/24]

- (1) If the offender fails, without reasonable excuse, to comply with any of the conditions attached to the conditional caution, criminal proceedings may be instituted against the person for the offence for which the conditional caution was given.
- (2) The document mentioned in section 58(5) is to be admissible in such proceedings.
- (3) Where such proceedings are instituted, the conditional caution is to cease to have effect.
- (4) Section 75(1) of the SJA 1989 (limitation of time for instituting proceedings) does not apply to such proceedings if the offender has signed the document referred to in section 58(5) within 6 months from the time when the offence was committed.

61 Arrest for failure to comply

P2003/44/24A and drafting (ss. (3) and (5)).

- (1) If a constable has reasonable grounds for believing that the offender has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution, the constable may arrest the offender without warrant.
- (2) An offender arrested under this section must be brought to a police station and —
 - (a) charged with the offence in question;
 - (b) released without charge and on bail to enable a decision to be made as to whether the person should be charged with the offence; or
 - (c) released without charge and without bail (with or without any variation in the conditions attached to the caution).

The decision as to which course of action is to be taken, and if the conditions attached to a caution are to be varied, how they are to be varied, is for the custody officer at the police station, subject to subsection (3).

- (3) If the conditional caution was given otherwise than by a constable, the custody officer must consult the person who gave it.
- (4) Subsection (2) also applies in the case of —
 - (a) a person who, having been released on bail under subsection (2)(b), returns to a police station to answer bail or is otherwise in police detention at a police station;
 - ~~(b) a person who, having been released on bail under section 33 of PPPA 1998 (arrest elsewhere than at police station) as applied by section 62, attends at a police station to answer bail or is otherwise in police detention at a police station;~~
 - (c) a person who is arrested under section 52 of PPPA 1998 (power of arrest for failure to answer to police bail) as applied by section 62.
- (5) If a person is charged under subsection (2)(a), the conditional caution ceases to apply.
- (6) If a person is released under subsection (2)(b), the custody officer must inform the person that he or she is being released to enable a decision to be made as to whether he or she should be charged with the offence in question.
- (7) A person arrested under this section, or any other person in whose case subsection (2) applies by virtue of subsection (4), may be kept in police detention to enable him or her to be dealt with in accordance with subsection (2).
- (8) If the person is not in a fit state to enable him or her to be so dealt with, ~~or to enable that power to be exercised,~~ he or she may be kept in police detention until he or she is in such a state.
- (9) The power under subsection (7) includes power to keep the person in police detention if it is necessary to do so for the purpose of investigating whether he or she has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution.
- (10) Subsection (2) must be complied with as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.
- (11) Subsection (2) does not require a person to be released who —
 - (a) falls within subsection (4)(a) or (b); and
 - (b) is in police detention in relation to a matter other than the conditional caution,

if the person is liable to be kept in detention in relation to that other matter.

62 Application of provisions of PPPA 1998

P2003/44/24B

- (1) In the case of a person arrested under section 61, the provisions of PPPA 1998 specified in subsection (2) apply, with the modifications specified in subsection (3) and with such further modifications as are necessary, as they apply in the case of a person arrested for an offence.
- (2) The provisions are, —
 - (a) section 33 (arrest elsewhere than at police station);
 - (b) section 34 (arrest for further offence);
 - (c) section 37(1) to (5) (limitations on police detention);
 - (d) section 39 (custody officers at police stations);
 - (e) section 40(3) to (5) (which concern records of grounds for detention);
 - (f) section 41 (duties of custody officer after charge);
 - (g) section 42 (responsibilities in relation to persons detained);
 - (h) section 58A (x-rays and ultrasound scans).
- (3) The modifications are —
 - (a) in section 39(5) and (7), for the references to being involved in the investigation of an offence for which the person is in police detention substitute references to being involved —
 - (i) in the investigation of the offence in respect of which the person was given the conditional caution; or
 - (ii) in investigating whether the person has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution;
 - (b) in section 42(2) and (3), for the references to an offence substitute references to a failure to comply with conditions attached to the conditional caution.
- (4) Section 43 of PPPA 1998 (review of police detention) applies to a person in police detention by virtue of section 61 above as it applies to a person in police detention in connection with the investigation of an offence, but with the following modifications —
 - (a) omit subsection (8);
 - (b) in subsection (9), for the reference to section 40(8) substitute a reference to section 61(8) of this Act.
- (5) The following provisions of PPPA 1998 apply to a person released on bail under section 61 above as they apply to a person released on bail under section 40 of PPPA 1998, —
 - (a) section 50 (bail after arrest); and
 - (b) section 52 (power of arrest for failure to answer to police bail).

- (6) Section 57 of PPPA 1998 (searches of detained persons) applies in the case of a person who falls within subsection (4) of section 61 above and is detained in a police station under that section as it applies in the case of a person who falls within section 37(6) of PPPA 1998 and is detained at a police station under section 40 of that Act.
- (7) In the case of a person who is detained in a police station under section 61 above, section 57A of PPPA 1998 (searches and examination to ascertain identity) applies with the following modifications, —
 - (a) in subsections (1)(a) and (12), after “as a person involved in the commission of an offence” insert —
“or as having failed to comply with any of the conditions attached to his or her conditional caution”;
 - (b) in subsection (9)(a), after “the investigation of an offence” insert —
“, the investigation of whether the person in question has failed to comply with any of the conditions attached to his or her conditional caution”.

63 Code of practice: cautions and youth cautions

P2003/44/25 and drafting

- (1) The Department must by order provide for —
 - (a) a code of practice in relation to cautions; and
 - (b) a separate code of practice in relation to “youth cautions” (see section 65).

Tynwald procedure – approval required.
- (2) Any such code may, in particular, include provision as to—
 - (a) the circumstances in which cautions may be given;
 - (b) the persons to be consulted before cautions may be given;
 - (c) the procedure to be followed in connection with the giving of cautions;
 - (d) the conditions which may be attached to conditional cautions and the time for which they may have effect;
 - (e) the category of constable or other ~~person authorised~~ **authorised person** to give cautions;
 - (f) the form which cautions are to take and the manner in which they are to be given and recorded;
 - (g) the places where cautions may be given;
 - (h) the monitoring of compliance with any conditions attached to cautions; and
 - (i) other action that may be taken as well as, or instead of giving cautions.

- (3) Before complying with subsection (1) in respect of youth cautions, the Department must consult both the Chief Constable and the Department of Health and Social Care specifically on matters relating to youth justice.
- (4) For the sake of clarity, an order under subsection (1) may revise or revoke a code authorised by a previous order.
- (5) Subsections (2) and (3) of section 75 of PPPA 1998 apply to an order under subsection (1), and section 76 of that Act applies to a code under subsection (1), as they respectively apply to an order or a code under section 75 of that Act.
- (6) In subsection (1), all references to “cautions” include “youth cautions” as that latter term is defined in section 65.

64 Assistance of probation officers

Drafting: see P2007/21/1(1)(b) and (c)

Probation officers may give assistance to authorised persons in determining—

- (a) whether conditional cautions should be given and which conditions to attach to conditional cautions; and
- (b) the supervision and rehabilitation of persons to whom conditional cautions are given.

65 Youth cautions

Drafting

Where a caution is given to a child over the age of criminal responsibility, or a young person, the caution is to be known as a “youth caution” (and “youth conditional caution” is to be construed accordingly).

DIVISION 4: AVAILABLE REMEDIES AND OUT-OF-COURT DISPOSALS

66 Statement of available remedies

P2014/12/101 and drafting

- (1) The Department must prepare a statement of available remedies, and may revise the statement at any time.
- (2) The statement of available remedies is a list of actions, any of which might in the opinion of the Department, be appropriate in a particular case to be carried out by a person who, —
 - (a) has engaged in anti-social behaviour or has committed an offence; and
 - (b) is to be dealt with for that behaviour or offence without court proceedings.
- (3) For the purposes of subsection (2), an action is appropriate to be carried out by a person only if it has one or more of the following objects, —

- (a) facilitating the person's rehabilitation;
 - (b) ensuring that the person makes reparation for the behaviour or offence in question;
 - (c) punishing the person.
- (4) In preparing or revising the statement of available remedies, the Department must, —
 - (a) have regard to the need to promote public confidence in the out-of-court disposal process;
 - (b) carry out the necessary consultation and take account of all views expressed by those consulted.
- (5) In subsection (4)(b) "the necessary consultation" means, —
 - (a) consultation with —
 - (i) the Attorney General;
 - (ii) the Chief Constable;
 - (iii) the Department of Education, Sport and Culture; and
 - (iv) the Department of Health and Social Care; and
 - (b) such other public consultation as the Department thinks appropriate.
- (6) The Department must lay the statement of available remedies, and any revised statement, before Tynwald and publish it in such other ways as it thinks appropriate.
- (7) In this section "out of court disposal process" means the process by which a person is dealt with under section 67 or by means of a conditional caution or youth conditional caution.

67 Anti-social behaviour etc.: out-of-court disposals

P2014/12/102 (omitting subs. (4)).

- (1) This section applies where, —
 - (a) an authorised person ("P") has evidence that an individual ("A") has engaged in anti-social behaviour or committed an offence;
 - (b) A admits to P that he or she has done so; **and**
 - (c) P thinks that the evidence is enough for taking proceedings ~~for an injunction against A for the conduct referred to in paragraph (a), or taking other court proceedings,~~ but decides that it would be appropriate for A to carry out action of some sort instead; and
 - (d) if the evidence is that A has committed an offence, P does not think that it would be more appropriate for A to be given a caution or a fixed penalty notice.
- (2) Before deciding what action to propose that A should carry out, P must, —

- (a) make reasonable efforts to consult the victim (if any) of the anti-social behaviour or the offence, to ascertain the victim's views as to whether A should carry out any of the actions listed in the statement of available remedies; and
 - (b) take into account the views so expressed.
- (3) Where there is more than one victim and they express different views, P must take account of any views expressed by the victim (or victims) in deciding what action to propose that A should carry out.
- (4) In this section, —
- “action” includes the making of a payment to compensate the victim (but does not include the payment of a fixed penalty);
- “statement of available remedies” means the statement of available remedies (as revised from time to time) published under section 66.

DIVISION 5: CONSEQUENTIAL AMENDMENTS

68 PPPA 1998 amended

PPPA 1998 is amended as follows.

68A Records concerning searches – section 7 amended

In section 7 (duty to make records concerning searches), in subsection (9), for “12 months” substitute «3 months»;

68B Section 40 amended

In section 40 (duties of custody officer before charge), in subsection (13) in the definition of “arrested juvenile” omit “and is not excluded from this Part by section 55”.

68C Section 55 repealed

Section 55 (children: serious offences) is repealed

69 ~~Fingerprinting: s. 64 amended~~

~~(1) Section 64 is amended as follows.~~

~~(2) For subsection (6) substitute —~~

~~«(6) The fingerprints of a person detained at a police station may also be taken without the appropriate consent if the person has been convicted of a recordable offence.~~

~~(6A) The fingerprints of a person who is at a police station (with or without being detained there) may also be taken without the~~

~~appropriate consent if the person has been given a caution in respect of a recordable offence.».~~

~~(3) In subsection (7) for “subsection (3) or (6)” substitute «subsection (3), (6) or (6A)».~~

«69 Fingerprinting: section 64 substituted

For section 64 (fingerprinting) substitute –

«64 Fingerprinting.

- (1) Except as provided by this section no person’s fingerprints may be taken without the appropriate consent.
- (2) Consent to the taking of a person’s fingerprints must be in writing if it is given at a time when the person is at a police station.
- (3) The fingerprints of a person detained at a police station may be taken without the appropriate consent if –
 - (a) the person is detained in consequence of his arrest for a recordable offence; and
 - (b) the person has not had his fingerprints taken in the course of the investigation of the offence by the police.
- (4) The fingerprints of a person detained at a police station may be taken without the appropriate consent if –
 - (a) he has been charged with a recordable offence or informed that he will be reported for such an offence; and
 - (b) he has not had his fingerprints taken in the course of the investigation of the offence by the police.
- (5) Where a person mentioned in subsection (3)(a) or (4)(a) has already had his or her fingerprints taken in the course of the investigation of the offence by the police, that fact shall be disregarded for the purposes of that subsection if –
 - (a) the fingerprints taken on the previous occasion do not constitute a complete set of his fingerprints; or
 - (b) some or all of the fingerprints taken on the previous occasion are not of sufficient quality to allow satisfactory analysis, comparison or matching (whether in the case in question or generally).
- (6) The fingerprints of a person who has answered to bail at a court or police station may be taken without the appropriate consent at the court or station if –
 - (a) the court, or
 - (b) an officer of at least the rank of inspector,

authorises them to be taken.

(7) A court or officer may only give an authorisation under subsection (6) if—

- (a) the person who has answered to bail has answered to it for a person whose fingerprints were taken on a previous occasion and there are reasonable grounds for believing that he or she is not the same person; or
- (b) the person who has answered to bail claims to be a different person from a person whose fingerprints were taken on a previous occasion.

(8) An officer may give an authorisation under subsection (6) orally or in writing but, if the officer gives it orally, he or she shall confirm it in writing as soon as is practicable.

(9) (9) The fingerprints of a person may be taken without the appropriate consent if (before or after the coming into force of this subsection) the person has been arrested for a recordable offence and released and—

- (a) the person has not had his or her fingerprints taken in the course of the investigation of the offence by the police; or
- (b) the person has had his or her fingerprints taken in the course of that investigation but –
 - (i) subsection (5)(a) or (b) applies, or
 - (ii) subsection (11) applies.

(10) The fingerprints of a person not detained at a police station may be taken without the appropriate consent if (before or after the coming into force of this subsection) the person has been charged with a recordable offence or informed that he or she will be reported for such an offence and.

(11) This subsection applies where –

- (a) the investigation was discontinued but subsequently resumed; and
- (b) before the resumption of the investigation the fingerprints were destroyed pursuant to section 68.

(12) Subject to this section, the fingerprints of a person may be taken without the appropriate consent if (before or after the coming into force of this subsection) –

- (a) the person has been convicted of a recordable offence, or
- (b) the person has been given a caution in respect of a recordable offence which, at the time of the caution, he or she has admitted, and

either of the conditions mentioned in subsection (13) is met.

- (13) The conditions referred to in subsection (12) are –
- (a) the person has not had his or her fingerprints taken since he or she was convicted or cautioned;
 - (b) the person has had his or her fingerprints taken since then but subsection (5)(a) or (b) applies.
- (14) Fingerprints may only be taken as specified in subsection (12) with the authorisation of an officer of at least the rank of inspector.
- (15) An officer may only give an authorisation under subsection (14) if the officer is satisfied that taking the fingerprints is necessary to assist in the prevention or detection of crime.
- (16) A constable may take a person's fingerprints without the appropriate consent if –
- (a) the constable reasonably suspects that the person is committing or attempting to commit an offence, or has committed or attempted to commit an offence; and
 - (b) either of the two conditions mentioned in subsection (17) is met.
- (17) The conditions are that –
- (a) the name of the person is unknown to, and cannot be readily ascertained by, the constable;
 - (b) the constable has reasonable grounds for doubting whether a name furnished by the person as his or her name is his or her real name.
- (18) The taking of fingerprints by virtue of subsection (16) does not count for any of the purposes of this Act as taking them in the course of the investigation of an offence by the police.
- (19) Subject to this section, the fingerprints of a person may be taken without the appropriate consent if –
- (a) under the law in force in a country or territory outside the Island the person has been convicted of an offence under that law (whether before or after the coming into force of this subsection and whether or not the person has been punished for it);
 - (b) the act constituting the offence would constitute a qualifying offence if done in the Island (whether or not it constituted such an offence when the person was convicted); and
 - (c) either of the conditions mentioned in subsection (20) is met.
- (20) The conditions referred to in subsection (19)(c) are –
- (a) the person has not had his or her fingerprints taken on a previous occasion under subsection (19);

- (b) the person has had his or her fingerprints taken on a previous occasion under that subsection but subsection (5)(a) or (b) applies.
- (21) Fingerprints may only be taken as specified in subsection (19) with the authorisation of an officer of at least the rank of inspector.
- (22) An officer may only give an authorisation under subsection (21) if the officer is satisfied that taking the fingerprints is necessary to assist in the prevention or detection of crime.
- (23) Where a person's fingerprints are taken without the appropriate consent by virtue of any power conferred by this section –
 - (a) before the fingerprints are taken, the person shall be informed of –
 - (i) the reason for taking the fingerprints;
 - (ii) the power by virtue of which they are taken; and
 - (iii) in a case where the authorisation of the court or an officer is required for the exercise of the power, the fact that the authorisation has been given; and
 - (b) those matters shall be recorded as soon as practicable after the fingerprints are taken.
- (24) If a person's fingerprints are taken at a police station, or by virtue of subsection (6) or (16), at a place other than a police station, whether with or without the appropriate consent –
 - (a) before the fingerprints are taken, an officer (or where, by virtue of subsection (6) or (16), the fingerprints are taken at a place other than a police station, the constable taking the fingerprints) shall inform him or her that they may be the subject of a speculative search; and
 - (b) the fact that the person has been informed of this possibility shall be recorded as soon as is practicable after the fingerprints have been taken.
- (25) If the person is detained at a police station when the fingerprints are taken, the matters referred to in subsection (23)(a)(i) to (iii) and, in the case falling within subsection (24), the fact referred to in paragraph (b) of that subsection shall be recorded on his or her custody record.
- (26) Any power under this section to take the fingerprints of a person without the appropriate consent, if not otherwise specified to be exercisable by a constable, shall be exercisable by a constable.
- (27) Nothing in this section –
 - (a) affects any power conferred by paragraph 18(2) of Schedule 2 to the Immigration Act 1971 (an Act of Parliament); or

- (b) applies to a person arrested or detained under the terrorism provisions or detained under section 30 of, or Schedule 7 to, the *Anti-Terrorism and Crime Act 2003*.
- (28) Nothing in this section applies to person arrested under an extradition arrest power.».

70 Other samples: s. 66 amended

In section 66(5) for the words following “if” substitute — for “if he has been convicted of a recordable offence” substitute «if -»

- «(a) the person has been convicted of a recordable offence; or
- (b) the person been given a caution for a recordable offence.».

71 Fingerprints and samples: supplementary provisions: s. 67 amended

- (1) Section 67 is amended as follows.
- (2) Before subsection (1) insert —
 - « (A1) This section applies if a person, —
 - (a) has been arrested on suspicion of being involved in a recordable offence;
 - (b) has been charged with such an offence;
 - (c) has been informed that he or she will be reported for such an offence; or
 - (d) has been given a caution for such an offence.».
- (3) In subsection (1) for the words from “Where a person” to “reported for such an offence,” substitute «If this section applies,».
- (4) For subsection (1A)(b) substitute —
 - « (b) the National Crime Agency formed under section 1 of the Crime and Courts Act 2013 (of Parliament);».
- (5) In subsection (1E)(a) for “but otherwise than in circumstances to which subsection (1) applies;” substitute, —
 - «in circumstances not falling within any paragraph of subsection (A1);».
- (6) In subsection (1G) after “64(6)” insert «or (6A)».
- (7) In subsection (4)—
 - (a) at the end of paragraph (a) omit “or”;
 - (b) after paragraph (b) insert, —
 - «; or
 - (c) the person has been given a caution for a recordable offence and either he has not had a sample taken from him since the

time when he was cautioned, or he has had such a sample taken from him (before or after the time when he was cautioned) but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.».

(8) In subsection (5) at the end insert —

« (c) in the case of a person falling within paragraph (c), one month beginning with the date of the caution or one month beginning with the date on which the appropriate officer is informed of the fact that the sample is not suitable for the same means of analysis or has proved insufficient, as the case may be.».

(9) In subsection (8) at the end insert —

« (c) in the case of a person falling within subsection (4)(c), the officer in charge of the police station from which the investigation of the offence for which he was given the caution was conducted.».

72 Destruction of fingerprints and samples: s. 68 amended

In section 68(2)(b) for the words “and he has not admitted it and been dealt with by way of being cautioned by a constable,” substitute «and that person has not been cautioned for the offence».

73 Part V – supplementary: s. 69 amended

In section 69 at the appropriate point in the alphabetical list insert, —

« “**caution**” is to be construed in accordance with Part 6 of the *Justice Reform Act 2021* (and “**cautioned**” is to be construed accordingly);».

74 Footwear impressions, etc: s. A77 amended

In section A77(3) for the words “and that person has not admitted it and been dealt with by way of being cautioned by a constable,” substitute «and that person has not been cautioned for the offence».

74A Section 81 amended

In section 81(1) (general interpretation), omit the definition of “registered nurse”.»

75 — CJA 2001 amended

~~In Schedule 1 to the CJA 2001 (registration of sex offenders) —~~

~~(a) — in paragraph 1, —~~

- ~~(i) in head (a) of subparagraph (2) omit “which, at the time when the caution is given, he has admitted”; and~~
- ~~(ii) omit “and” immediately after that head; and~~
- ~~(b) in paragraph 6(3) omit “and which, at the time when the caution is given, he has admitted”.~~

76 Rehabilitation of Offenders Act 2001 amended

(1) The *Rehabilitation of Offenders Act 2001* is amended as follows.

(2) After section 7 insert, —

«7A Protection afforded to spent cautions

P1974/53/8A

- (1) Schedule 1A (protection for spent cautions) has effect.
- (2) A reference in this Act to a caution —
 - (a) if the caution is given in the Island, is to be construed in accordance with Part 6 of the *Justice Reform Act 2021*;
 - (b) if the caution is given in England and Wales, is to be construed in accordance with section 8A(2)(a) or (b) of the *Rehabilitation of Offenders Act 1974* (of Parliament) ;
 - (c) includes anything which corresponds to a caution falling within paragraph (a) or (b) (however described) which is given to a person in respect of an offence under the law of a country or territory outside the Island.».

(3) After section 8 insert, —

«8A Unauthorised disclosure of spent cautions

P1974/53/9A

- (1) In this section, —
 - (a) “official record” means a record which, —
 - (i) contains information about persons given a caution for any offence or offences; and
 - (ii) is kept for the purposes of its functions by any court, police force, Department, Statutory Board or other public authority in the Island;
 - (b) “caution information” means information imputing that a named or otherwise identifiable living person (“the named person”) has committed, been charged with or prosecuted or given a caution for any offence which is the subject of a spent caution; and

- (c) “relevant person” means any person who, in the course of his or her official duties, has or at any time has had custody of or access to any official record or the information contained in it.
- (2) Subject to the terms of any order made under subsection (5), a relevant person commits an offence if, knowing or having reasonable cause to suspect that any information he or she has obtained in the course of his or her official duties is caution information, he or she discloses it, otherwise than in the course of those duties, to another person.
- Maximum penalty (summary) — level 4 fine.
- (3) In any proceedings for an offence under subsection (2), it is a defence for the defendant to show that the disclosure was made, —
- (a) to the named person or to another person at the express request of the named person;
- (b) to a person whom the defendant reasonably believed to be the named person or to another person at the express request of a person whom he or she reasonably believed to be the named person.
- (4) Any person who obtains any caution information from any official record by means of any fraud, dishonesty or bribe commits an offence.
- Maximum penalty (summary) — 12 months’ custody or a level 5 fine.
- (5) The Department may by order make such provision as appears to it to be appropriate for excepting the disclosure of caution information derived from an official record from the provisions of subsection (2) in such cases or classes of case as may be specified in the order.
- Tynwald procedure — approval required.».
- (4) After Schedule 1 insert, as Schedule 1A, the Schedule set out as Schedule 4 to this Act.

77 — Sex Offenders Act 2006 amended

~~In section 13(1) of the Sex Offenders Act 2006 in the definition of “cautioned” after “constable” insert «or other authorised person (within the meaning of section 52 of the Justice Reform Act 2021)».~~

PART 7 – IMMEDIATE FINANCIAL PENALTIES

DIVISION 1 — OFFENCES TO WHICH THIS DIVISION APPLIES

78 Offences leading to immediate financial penalties

P2001/16/1 and drafting

- (1) For the purposes of this Part, “penalty offence” means an offence committed under any of the provisions mentioned in the first column of the following table and described, in general terms, in the second column—

Provision creating offence	Description of offence
Telecommunications Act 1984, s. 28(1)(b)	Using public telecommunications system for sending message known to be false in order to cause annoyance
<i>Communications Act 2021</i> s. 109(4)	for the purpose of causing annoyance, inconvenience or needless anxiety to another, sending, by means of a public electronic communications system a message which is false and which the sender knows or believes to be false; causing such a message to be sent; or persistently making use of a public electronic communications network
<i>Fire Services Act 1984, s.7</i>	Knowingly giving a false alarm of fire
<i>Licensing Act 1995</i> s. 34(1) or (2) s. 73(1) s. 74A(1) s. 75(1) or (2) s. 76(1)	Procuring drink for drunken persons Consumption of liquor by minors Agents, etc. obtaining liquor for minors Public drunkenness Drinking in public places
<i>Liquor Licensing and Public Entertainments Act 2021</i> s. 31(1) s. 31(2)	procuring liquor for consumption by an intoxicated person in or in close proximity to licensed premises aiding an intoxicated person in obtaining or consuming liquor in licensed premises

s. 41(1)	While in a public place: while drunk, acts in an indecent or disorderly manner; is drunk and incapable of taking care of himself or herself; is drunk while in charge of any horse or cattle or any carriage or cart; is drunk while in charge of a child under the age of 10 years
s. 42(1)	consuming liquor in a public place after being warned by a police officer not to do so
<i>Public Order Act 1998, s.3</i>	Behaviour likely to cause harassment, alarm or distress
<i>Fireworks Act 2004, s 4(1)</i>	Restrictions on fireworks displays

- (2) The Department may by order amend the table in subsection (1) to add, amend or remove an entry.

Tynwald procedure — approval required.

- (3) An order under subsection (2) may make such amendment of any provision of this Part as the Department considers appropriate in consequence of any change in the table made by the order.

79 Interpretation

P2001/16/11

In this Part, —

“**defaulter**” has the meaning given in section 86(5)(b);

“**penalty notice**” has the meaning given in section 80(5);

“**penalty offence**” has the meaning given in section 78;

“**registrable sum**” has the meaning given in section 86(5)(a).

DIVISION 2 — PENALTY NOTICES AND PENALTIES

80 Penalty notices

P2011/16/2 and drafting

- (1) A constable or authorised person who has reason to believe that a person over the age of criminal responsibility has committed a penalty offence may give him or her a penalty notice in respect of the offence.
- (2) Unless the notice is given in a police station, the person giving it must be a constable in uniform.
- (3) At a police station, a penalty notice may be given by a constable or an authorised person.
- (4) Before giving a penalty notice in the case of a person under the age of 16, the person giving it must take reasonable steps, —

- (a) to notify a responsible person that the notice is to be given; and
- (b) if the notice is to be given at a police station, to secure the attendance of a responsible person at the police station.

(4A) If a person under the age of 16 is given a penalty notice,

- (a) a constable or authorised person must notify the responsible person of the giving of the notice; and
- (b) the responsible person is to be liable, in accordance with regulations made by the Department, to pay the penalty under the notice.

(5) In this Division —

“authorised person” means a person authorised by the Chief Constable to give penalty notices; and

~~“penalty notice” means a notice offering the opportunity, by paying a penalty in accordance with this Division, to discharge any liability to be convicted of the offence to which the notice relates and, —~~

- ~~(a) — where a person under the age of 16 is given a penalty notice, for the responsible person to be notified of the giving of the notice; and~~
- ~~(b) — for the responsible person to be liable, in accordance with regulations made by the Department, to pay the penalty under the notice; and~~

“penalty notice” means a notice offering the opportunity, by paying a penalty in accordance with this Division, to discharge any liability to be convicted of the offence to which the notice relates;

“responsible person” in relation to a person under the age of 16 means that person’s parent or guardian or a person who has parental responsibility for that person;

Tynwald procedure — approval required.

- (6) The provision which may be made by virtue of ~~paragraph (b) of the definition of “penalty notice” in subsection (5) includes~~ **subsection 4A(b) may include** provision applying (with or without modifications), this Part or any other enactment (whenever passed or made) in respect of fixed penalties.

81 Amount of penalty and form of penalty notice

P2001/16/3

- (1) The penalty payable in respect of a penalty offence is £120.
- (2) The Department may by order amend subsection (1) so as to, —
 - (a) substitute another amount to the amount currently specified; or
 - (b) specify different amounts for persons of different ages.

Tynwald procedure — approval required.

- (3) But the Department may not specify an amount which is more than a quarter of the amount of the maximum fine for which a person is liable on summary conviction of the offence.
- (4) A penalty notice must, —
 - (a) be in a form approved by the Department;
 - (b) state the alleged offence;
 - (c) give such particulars of the circumstances alleged to constitute the offence as are necessary to provide reasonable information about it;
 - (d) specify the suspended enforcement period (as to which see section 83) and explain its effect;
 - (e) state the amount of the penalty;
 - (f) state how the penalty is to be paid; and
 - (g) inform the person to whom it is given of his or her right to request that he or she should be tried for the alleged offence and explain how that right may be exercised.

82 Effect of penalty notice

P2001/16/4

- (1) This section applies if a penalty notice is given to a person ("A") under section 80.
- (2) If A makes a request to be tried for the alleged offence, proceedings may be brought against him or her.
- (3) Such a request must be made by a notice given by A, —
 - (a) in the manner specified in the penalty notice; and
 - (b) before the end of the period of suspended enforcement (as to which see section 83).
- (4) A request which is made in accordance with subsection (3) is referred to in this Division as a "request to be tried".
- (5) If, by the end of the suspended enforcement period, —
 - (a) the penalty has not been paid in accordance with this Part; and
 - (b) A has not made a request to be tried,

a sum equal to one and a half times the amount of the penalty may be registered under section 86 for enforcement against A as a fine.

83 General restriction on proceedings

P2001/16/5

- (1) Proceedings for the offence to which a penalty notice relates may not be brought until the end of the period of 21 days beginning with the date on which the notice was given ("the suspended enforcement period").

- (2) If the penalty is paid before the end of the suspended enforcement period, no proceedings may be brought for the offence.
- (3) Subsection (1) does not apply if the person to whom the penalty notice was given has made a request to be tried.

84 Code of practice

P2001/16/6 and drafting

- (1) The Department may by order provide for a code of practice —
 - (a) about the exercise of the discretion given to constables and authorised persons by this Division;
 - (b) about the issuing of penalty notices;
 - (c) with a view to encouraging good practice in connection with the operation of this Part.

Tynwald procedure — approval required.

- ~~(2) Subsections (2) and (3) of section 75 of PPPA 1998 apply to an order under subsection (1), and section 76 of that Act applies to a code under subsection (1), as they respectively apply to an order or a code under section 75 of that Act.~~

- (2) An order under subsection (1) may make provision in relation to the matters in that subsection by applying, adopting or incorporating, with or without modification, the provisions of any document as in operation at a particular time, or as in operation from time to time.
- (3) Subsection (2) applies even if the document mentioned in that subsection makes provision for a matter by applying, adopting or incorporating, with or without modification, another document as in operation at a particular time, or from time to time
- (4) When the Department proposes to make an order to which this section applies, it must prepare and publish a draft of that order, and consider any representations made to it about the draft or the code to which it applies, and may modify the draft accordingly.
- (5) An order bringing a code, or a revision of a code, into operation may include transitional or saving provisions.
- (6) A police officer shall be liable to disciplinary proceedings for a failure to comply with any provision of a code to which this section applies.
- (7) An authorised person must have regard to any relevant provision of a code provided for under this section when exercising their powers under this Division.
- (8) A failure on the part —
 - (a) of a police officer to comply with any provision of such a code; or

- (b) an authorised officer to have regard to any relevant provision of such a code when exercising their powers,
- shall not of itself render the police officer or authorised person liable to any criminal or civil proceedings.
- (9) In all criminal and civil proceedings any such code shall be admissible in evidence; and if any provision of such a code appears to the court or tribunal conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

DIVISION 3 — PROCEDURE

85 Payment of penalty

P2001/16/7 and drafting

- (1) If a person to whom a penalty notice is given decides to pay the penalty, he or she must pay by one of the methods specified in the penalty notice (which must include a method of payment by electronic or telephone banking).
- (2) A sum payable by way of a penalty is to be treated for the purposes of the *Collection of Fines etc. Act 1985* as a fine adjudged to be paid on conviction by a criminal court.
- (3) Payment of the penalty may also be made by properly addressing, pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the Chief Registrar for the credit of the General Revenue.
- (4) Subsection (5) applies if a person, —
- (a) claims to have made payment in accordance with subsection (3); and
- (b) shows that the letter was posted.
- (5) Unless the contrary is proved, payment is to be regarded as made at the time at which the letter would be delivered in the ordinary course of post.
- (6) A letter is properly addressed for the purposes of subsection (3) if it is addressed in accordance with the requirements specified in the penalty notice.

86 Registration certificates

P2001/16/8 (adapted)

- (1) The Chief Registrar may, in respect of any registrable sum, issue a certificate (a “registration certificate”) stating that the sum has been registered for enforcement against the defaulter as if it were a fine adjudged to be paid on conviction by a court.

- (2) If the Chief Registrar issues a registration certificate, he or she must cause it to be sent to the defaulter at the defaulter's last known address.
- (3) A registration certificate must, —
 - (a) give particulars of the offence to which the penalty notice relates; and
 - (b) state the amount of the registrable sum.
- (4) If a sum is registered as a result of this section, any enactment referring (in whatever terms) to a fine imposed, or other sum adjudged to be paid, on conviction by a criminal court applies as if the registered sum were a fine imposed by such a court on the conviction of the defaulter on the date on which the sum was registered.
- (5) In this Division, —
 - (a) **"registrable sum"** means a sum that may be registered under this section as a result of section 82(5); and
 - (b) **"defaulter"** means the person against whom that sum may be registered.

87 Enforcement of fines

P2001/16/10

- (1) In this section, —

"fine" means a sum which is enforceable as a fine as a result of section 86(4); and

"proceedings" means proceedings for enforcing such a fine.
- (2) Subsection (3) applies if, in any proceedings, the defaulter claims that he or she was not the person to whom the penalty notice concerned was issued.
- (3) The court may adjourn the proceedings for a period of not more than 28 days for the purpose of allowing that claim to be investigated.
- (4) On the resumption of proceedings that have been adjourned under subsection (3), the court must accept the defaulter's claim unless it is shown, on a balance of probabilities, that he or she was the recipient of the penalty notice.
- (5) The court may set aside a fine in the interests of justice.
- (6) If the court does set a fine aside it must, —
 - (a) give such directions for further consideration of the case as it considers appropriate; or
 - (b) direct that no further action is to be taken in respect of the allegation that gave rise to the penalty notice concerned.

PART 8 — HARASSMENT AND STALKING

88 Protection from Harassment Act 2000 amended

The *Protection from Harassment Act 2000* is amended as follows.

89 Prohibition of harassment — section 1 amended

- (1) Section 1 is amended as follows.
- (2) [Amended subsection (1)]
- (3) [Inserted subsection (1A)]
- (4) [Amended subsection (2)]
- (5) [Amended subsection (3)]

90 Offence of harassment — section 2 substituted

[Substituted section 2]

91 Stalking — sections 2A and 2B inserted

[Inserted sections 2A and 2B]

92 Civil remedy — section 3 amended

- (1) Section 3 is amended as follows.
- (2) [Amended subsection (1)]
- (3) [Amended subsections (3)(b), (5)(b) and (6)]
- (4) [Amended subsection (9)(b)]

93 Injunctions to protect persons from harassment within section 1(1A): section 3A inserted

[Inserted section 3A]

94 Putting people in fear of violence, — section 4 substituted

[Substituted section 4]

95 Stalking involving fear of violence or serious alarm or distress — section 4A inserted

[Inserted section 4A]

96 Restraining orders — section 5 amended

- (1) Section 5 is amended as follows.

- (2) [Amended heading to section 5]
 - (a) [Amended subsection (1)]
- (3) [Amended subsection (2)]
- (4) [Inserted subsection (3A)]
- (5) [Inserted subsection (4A)]
- (6) [Substituted subsection (5)]
- (7) [Amended subsection (6)(b)]
- (8) [Inserted subsection (7)]

97 Restraining orders on acquittal — section 5A inserted

[Inserted section 5A]

98 Interpretation — section 7 substituted

[Substituted section 7]

PART 9 – MISCELLANEOUS AND GENERAL

DIVISION 1 – JUDICIAL RETIREMENT

99 Judicial retirement at 75

- (1) The following must vacate office on reaching the age of 75 —
 - (a) the Judge of Appeal, appointed under section 3A of the *High Court Act 1991*;
 - (b) the First Deemster, appointed under section 3A of the *High Court Act 1991*;
 - (c) the Second Deemster, appointed under section 3A of the *High Court Act 1991*;
 - (d) a Deemster appointed on a full-time basis under section 3B of the *High Court Act 1991*;
 - (e) the High Bailiff; and
 - (f) a Deputy High Bailiff appointed on a full-time basis under section 1 of the SJA 1989.
- (2) After consulting the Deemsters, the Governor in Council may make regulations empowering a person vacating office under subsection (1) to continue to act to conclude proceedings in which he or she is engaged on reaching the age of 75.
- (3) Subsections (4) and (5) amend other enactments in connection with subsection (1).

- (4) [Amended section 1(3) of the Summary Jurisdiction Act 1989]
- (5) In the *High Court Act 1991* —
 - (a) [Amended section 3A(3)]
 - (b) [Amended section 3A(4)]
 - (c) [Amended section 3B(2)]

DIVISION 2 – ELECTRONIC COMMUNICATIONS IN CONNECTION WITH LAND REGISTRATION

100 Use of electronic communications in connection with land registration: Land Registration Act 1982 amended

[Inserted section 3A in the *Land Registration Act 1982*]

DIVISION 3, – AMENDMENTS

101 Evidence Act 1871 amended

- (1) The *Evidence Act 1871* is amended as follows.
- (2) [Substituted section 17]
- (3) [Renumbered existing text of section 19A as subsection (1) and inserted subsections (2), (3) and (4)]

102 Legal Aid Act 1986 amended

- (1) The *Legal Aid Act 1986* is amended as follows.
- (2) [Inserted section 3(1B)]
- (3) [Substituted section 14]
- (4) [Inserted section 21(1A)(c)]

103 Jury Act 1980 amended

- (1) The *Jury Act 1980* is amended as follows.
- (2) In section 1(1) (which concerns the age limits for jurors) —
 - (a) [Amended paragraph (a)]
 - (b) [Amended paragraph (b)]
- (3) [Amended section 12(4)]
- (4) [Substituted section 24, with the exception of the insertion of “or” after subsection (1)(a) and subsection (1)(b). For the convenience of users the full text of substituted section 24 is reproduced below.]

«24 Number of jurors empanelled in criminal matters

- (1) Any case in which the information includes a count for an offence for which the accused is to be tried by a jury —
 - (a) for which the sentence is fixed by law; or
 - (b) which would be punishable, in the case of a person aged 18 or over, by more than 10 years' custody,
 is to be tried by a jury of 12 persons.
- (2) If subsection (1) does not apply, an offence triable on information is to be tried by a jury of 7 persons, unless a Deemster is satisfied that because of the gravity of the matters in issue, the offence should be tried by a jury of 12 persons.
- (3) If a Deemster is satisfied as mentioned in subsection (2), he or she may direct that the offence is to be tried by a jury of 12 persons.
- (4) This section is subject to sections 8A to 8C of the *Criminal Jurisdiction Act 1993* (trial by Deemster sitting alone).».
- (5) [Inserted section 24A]
- (6) [Amended section 26]
- (7) In section 27 (challenges in criminal trials)—
 - (a) [Repealed subsection (1)]
 - (b) [Substituted subsection (2)]
 - (c) [Amended subsection (3)]
 - (d) [Amended subsection (4)]
 - (e) [Repealed subsection (5)]

104 Fatal Accidents Act 1981 amended

- (1) Section 1A of the *Fatal Accidents Act 1981* is amended as follows.
- (2) [Inserted subsection (2)(aa)]
- (3) [Inserted subsection (2A)]
- (4) [Amended subsection (4)]

105 Coroners of Inquests Act 1987 amended

- (1) The *Coroners of Inquests Act 1987* is amended as follows.
- (2) In section 2 —
 - (a) for subsection (4) (d) substitute —
 - « (d) a death occurs, —
 - (i) in an institution within the meaning of the *Custody Act 1995*;

- (ii) in police custody;
 - (iii) as a result of an injury caused by a constable in the execution or purported execution of the constable's duty; or
 - (iv) otherwise in state detention,
- the Chief Constable, or in a case falling within subparagraph (i) the governor of the institution, must, immediately on becoming aware of it, give notice of the death to the coroner of inquests, together with such information as the Chief Constable or governor is able to obtain about the finding of the body or the death.»; and⁴

(b) [Inserted subsection (7)]

(3) [Amended section 8(1)]

(4) [Substituted section 9(3)]

106 Custody Act 1995 amended

(1) The *Custody Act 1995* is amended as follows.

(2) [Inserted paragraph 10A and associated cross heading in Schedule 2]

107 CJA 2001 amended

(1) CJA 2001 is amended as follows.

(2) In section 35 —

(a) [Repealed subsection (4)(b)]

(b) [Amended subsection (6)(a)]

(3) [Repealed sections 53 and 54]

(4) [Amended paragraph 2(4) of Schedule 7]

108 Human Rights Act 2001 amended

(1) The *Human Rights Act 2001* is amended as follows.

(2) [Substituted section 9(3) and inserted section 9(3A)]

(3) In section 9A —

(a) [Substituted subsection (1)(b)]

(b) [Inserted subsections (1A) and (1B)]

(c) [Inserted subsection (4)]

(4) [Repealed section 9B(1)(d)]

109 Rehabilitation of Offenders Act 2001 amended

- (1) The *Rehabilitation of Offenders Act 2001* is amended as follows.
 - (2) In section 2, —
 - (a) renumber the existing text as subsection (1).
 - (b) in subsection (1)(b) (sentences excluded from rehabilitation) for “30” substitute «48».
 - (c) at the end insert, —

« (2) The Department may by order amend subsection (1).

(3) An order under subsection (2) may make consequential amendments to other provisions of this Act (and, in particular to Schedule 1) and include such other consequential, supplementary, transitional and transitory provision as the Department considers appropriate.».
 - (3) In the following provisions for “Department of Home Affairs” substitute «Department».
- The provisions are —
- (a) section 7(2);
 - (b) section 8(7);
 - (c) section 10(1);
 - (d) section 14(2); and
 - (e) paragraph 6(2) of Schedule 1.
- (4) In section 11(1) after the definition of “custody” insert, —

« “**Department**” means the Department of Home Affairs;».
 - (5) ~~In the table in paragraph 7 of Schedule 1, before the first row of entries in the table (but after the cross headings) insert, —~~

«A sentence of custody for a term exceeding 30 months but not exceeding 48 months.	12 years».
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110 Matrimonial Proceedings Act 2003 amended

- (1) The *Matrimonial Proceedings Act 2003* is amended as follows.
- (2) [Amended heading to Part 5]
- (3) [Amended section 109(6)]

111 Interpretation Act 2015 amended: meaning of “the Deemsters”

In paragraph 1 of the Schedule to the *Interpretation Act 2015* (which paragraph defines terms for the purposes of all Manx legislation) —

- (a) [Inserted definitions of “Deemster” and “the Deemsters”]
- (b) [Omitted definitions of “Deemster” and “Deemsters”]

112 Criminal Evidence Act 2019: section 38A inserted

[Inserted section 38A of the *Criminal Evidence Act 2019*]

113 Dormant Assets Act 2019: section 39 amended

[Substituted section 39(3) of the *Dormant Assets Act 2019*]

114 Criminal Justice, Police and Courts Act 2007: ~~sections 30A to 30D~~ inserted **amended**

- (1) The Criminal Justice, Police and Courts Act 2007 is amended as follows.
- (2) Immediately after section 30 of the *Criminal Justice, Police and Courts Act 2007*, insert the following, —

“30A Broadcasts of court proceedings

- (1) The court may, in giving a live video link direction under this Act, direct —
 - (a) that the proceedings are to be broadcast in the manner specified in the direction for the purpose of enabling members of the public to see and hear the proceedings;
 - (b) that a recording of the proceedings is to be made in the manner specified in the direction for the purpose of enabling the court to keep an audio-visual record of the proceedings.
- (2) The court may, in giving a live audio link direction under this section, direct —
 - (a) that the proceedings are to be broadcast in the manner specified in the direction for the purpose of enabling members of the public to hear the proceedings;
 - (b) that a record of the proceedings is to be made in the manner specified in the direction for the purpose of enabling the court to keep an audio record of the proceedings.
- (3) A direction under subsection (1) or (2) may relate to the whole, or to part, of the proceedings concerned.

30B Offences of recording or transmission in relation to broadcasting

- (1) It is an offence for a person to make, or attempt to make —
- (a) an unauthorised recording; or
 - (b) an unauthorised transmission,
- of an image or sound which is being broadcast in accordance with a direction under section 30A.
- (2) It is an offence for a person to make, or attempt to make —
- (a) an unauthorised recording; or
 - (b) an unauthorised transmission,
- of an image of, or sound made by, another person while the other person is viewing or listening to a broadcast made in accordance with a direction under section 30A.
- (3) It is a defence for a person charged with an offence under subsection (1) or (2) to prove that, at the time of the actual or attempted recording or transmission of the image or sound concerned, he or she did not know, and could not reasonably have known, that the image or sound was —
- (a) being broadcast in accordance with a direction under section 30A, in the case of an offence under subsection (1); or
 - (b) an image of, or sound made by, another person while viewing or listening to a broadcast made in accordance with a direction under section 30A, in the case of an offence under subsection (2).
- (4) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) For the purposes of this section, it does not matter whether a person making, or attempting to make, a recording or transmission intends the recording or transmission, or anything comprised in it, to be seen or heard by any other person.
- (6) For the purposes of this section, a recording or transmission is “unauthorised” unless it is —
- (a) authorised by a direction under this Act;
 - (b) otherwise authorised (generally or specifically) by the court in which the proceedings concerned are being conducted; or
 - (c) authorised (generally or specifically) by the First Deemster.

30C Offences of recording or transmitting participation through live link

- (1) It is an offence for a person to make, or attempt to make —
 - (a) an unauthorised recording; or
 - (b) an unauthorised transmission,
 of an image or sound which is being transmitted through a live video link or transmitted through a live audio link.
- (2) It is an offence for a person (P) to make, or attempt to make —
 - (a) an unauthorised recording; or
 - (b) an authorised transmission,
 of an image of, or sound made by, any person (whether P or another person) while that person is participating in court proceedings through a live video link or a live audio link.
- (3) It is a defence for a person charged with an offence under subsection (1) or (2) to prove that, at the time of the actual or attempted recording or transmission, he or she did not know, and could not reasonably have known, that the image or sound concerned —
 - (a) was being transmitted through a live video link or through a live audio link (in the case of an offence under subsection (1)); or
 - (b) was an image of, or sound made by, a person while that person was participating in court proceedings through a live video link or a live audio link (in the case of an offence under subsection (2)).
- (4) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) For the purposes of this section, it does not matter whether a person making, or attempting to make, a recording or transmission intends the recording or transmission, or anything comprised in it, to be seen or heard by any other person.
- (6) For the purposes of this section, a recording or transmission is “unauthorised” unless it is —
 - (a) authorised (generally or specifically) by the court in which the proceedings concerned are being conducted; or
 - (b) authorised (generally or specifically) by the First Deemster.

30D Secondary legislation

(1) The Department of Home Affairs may by order amend any provision in an Act of Tynwald or a statutory document that pertains to live links (whether or not the broadcast of any such link is also provided for) in court proceedings or proceedings before any tribunal, but must first –

- (a) consult with the Deemsters;
- (b) where a Department other than the Department of Home Affairs is responsible for administering the legislation to be amended, consult with that Department.

Tynwald procedure – approval required.

~~(2) The Department of Home Affairs, after consultation with the Deemsters, may by regulations prescribe –~~

- ~~(a) the procedure for the use of live links;~~
- ~~(b) where applicable, the broadcast of such links and any restrictions on such broadcast.~~

~~Tynwald procedure – approval required.”.~~

(3) In section 35 (rules of court) for “section 35” substitute «this Part».

(4) After section 36 (evidence by video recording), insert –

36A Video recorded cross-examination or re-examination

P1999/23/28

(1) Where a direction provides for a video recording to be admitted under section 36 as evidence in chief of the witness, the direction may also provide –

- (a) for any cross-examination of the witness, and any re-examination, to be recorded by means of a video recording; and
- (b) for such a recording to be admitted, so far as it relates to any such cross-examination or re-examination, as evidence of the witness under cross-examination or on re-examination, as the case may be.

(2) Such a recording must be made in the presence of such persons as rules of court or the direction may provide and in the absence of the defendant, but in circumstances in which –

- (a) the judge or justices (or both) and legal representatives acting in the proceedings are able to see and hear the examination of the witness and to communicate with the persons in whose presence the recording is being made, and

- (b) the defendant is able to see and hear any such examination and to communicate with any legal representative acting for him.
- (3) Where two or more legal representatives are acting for a party to the proceedings, subsection (2)(a) and (b) are to be regarded as satisfied in relation to those representatives if at all material times they are satisfied in relation to at least one of them.
- (4) Where a direction provides for a recording to be admitted under this section, the court may nevertheless subsequently direct that it is not to be so admitted if any requirement of subsection (2) or rules of court or the direction has not been complied with to the satisfaction of the court.
- (5) Where in pursuance of subsection (1) a recording has been made of any examination of the witness, the witness may not be subsequently cross-examined or re-examined in respect of any evidence given by the witness in the proceedings (whether in any recording admissible under section 36 or this section or otherwise than in such a recording) unless the court gives a further direction making such provision as is mentioned in subsection (1)(a) and (b) in relation to any subsequent cross-examination, and re-examination, of the witness.
- (6) The court may only give such a further direction if it appears to the court—
 - (a) that the proposed cross-examination is sought by a party to the proceedings as a result of that party having become aware, since the time when the original recording was made in pursuance of subsection (1), of a matter which that party could not with reasonable diligence have ascertained by then, or
 - (b) that for any other reason it is in the interests of justice to give the further direction.
- (7) Nothing in this section shall be read as applying in relation to any cross-examination of the witness by the defendant in person (in a case where the defendant is to be able to conduct any such cross-examination).

36B Prohibition on cross-examination of complainant in proceedings for sexual offences

P1999/23/34

No defendant charged with a sexual offence may in any criminal proceedings cross-examine in person a witness who is the complainant, either –

- (a) in connection with that offence, or

- (b) in connection with any other offence (of whatever nature) with which that person is charged in the proceedings.

36C Prohibition on cross-examination of child complainant or other child witness by defendant

P1999/23/35

- (1) No defendant charged with an offence may in any criminal proceedings cross-examine in person a protected witness, either –
 - (a) in connection with that offence; or
 - (b) in connection with any other offence (of whatever nature) with which that person is charged in the proceedings.
- (2) For the purposes of subsection (1) a “protected witness” is a witness who –
 - (a) either is the complainant or is alleged to have been a witness to the commission of the offence to which this section applies; and
 - (b) either is a child or falls to be cross-examined after giving evidence in chief (whether wholly or in part) –
 - (i) by means of a video recording made (for the purposes of section 36D) at a time when the witness was a child; or
 - (ii) in any other way at any such time.
- (3) For the purposes of this section “witness” includes a witness who is charged with an offence in the proceedings.

36D Direction prohibiting defendant from cross-examining particular witness

P1999/23/36

- (1) This section applies where, in a case where neither of sections 36B and 36C operates to prevent a defendant in any criminal proceedings from cross-examining a witness in person –
 - (a) the prosecutor makes an application for the court to give a direction under this section in relation to the witness; or
 - (b) the court of its own motion raises the issue whether such a direction should be given.
- (2) If it appears to the court –
 - (a) that the quality of evidence given by the witness on cross-examination –
 - (i) is likely to be diminished if the cross-examination (or further cross-examination) is conducted by the defendant in person; and

- (ii) would be likely to be improved if a direction were given under this section; and
- (b) that it would not be contrary to the interests of justice to give such a direction,

the court may give a direction prohibiting the defendant from cross-examining (or further cross-examining) the witness in person.

- (3) In determining whether subsection (2)(a) applies in the case of a witness the court must have regard, in particular, to—

- (a) any views expressed by the witness as to whether or not the witness is content to be cross-examined by the defendant in person;
- (b) the nature of the questions likely to be asked, having regard to the issues in the proceedings and the defence case advanced so far (if any);
- (c) any behaviour on the part of the defendant at any stage of the proceedings, both generally and in relation to the witness;
- (d) any relationship (of whatever nature) between the witness and the defendant;
- (e) whether any person (other than the defendant) is or has at any time been charged in the proceedings with a sexual offence or an offence to which section 36C applies, and (if so) whether section 36B or 36C operates or would have operated to prevent that person from cross-examining the witness in person;
- (f) any direction which the court has given, or proposes to give, in relation to the witness.

- (4) For the purposes of this section —

- (a) “witness”, in relation to a defendant, does not include any other person who is charged with an offence in the proceedings; and
- (b) any reference to the quality of a witness’s evidence shall be a reference to its quality in terms of completeness, coherence and accuracy, and for this purpose “coherence” refers to a witness’s ability in giving evidence to give answers which address the questions put to the witness and can be understood both individually and collectively.

36E Alternatives to cross-examination in person

- (1) This section applies where a defendant is prevented from cross-examining a witness in person by virtue of section 36B, 36C or 36D.

- (2) The court must consider whether (ignoring this section) there is a satisfactory alternative means, —
 - (a) for the witness to be cross-examined in the proceedings, or
 - (b) of obtaining evidence that the witness might have given under cross-examination in the proceedings.
- (3) If the court decides that there is not, the court must, —
 - (a) invite the party to the proceedings to arrange for an advocate to act for the party for the purpose of cross-examining the witness, and
 - (b) require the party to the proceedings to notify the court, by the end of a period specified by the court, of whether an advocate is to act for the party for that purpose.
- (4) Subsection (5) applies if, by the end of the period specified under subsection (3)(b), either, —
 - (a) the defendant has notified the court that no advocate is to act for the party for the purpose of cross-examining the witness, or
 - (b) no notification has been received by the court and it appears to the court that no advocate is to act for the defendant for the purpose of cross-examining the witness.
- (5) The court must consider whether it is necessary in the interests of justice for the witness to be cross-examined by an advocate appointed by the court to represent the interests of the defendant.
- (6) If the court decides that it is, the court must appoint an advocate (chosen by the court) to cross-examine the witness in the interests of the defendant.
- (7) An advocate appointed by the court under subsection (6) is not responsible to the defendant.
- (8) For the purposes of this section a reference to cross-examination includes (in a case where a direction is given under section 36D after the party has begun cross-examining the witness) a reference to continuing to conduct cross-examination.

36F Costs of advocates appointed under section 36E

- (1) After consulting the Deemsters, the Treasury may by regulations make provision for the payment out of the General Revenue of the Island of sums in respect of, —
 - (a) fees or costs properly incurred by an advocate appointed under section 36E, and

- (b) expenses properly incurred in providing such a person with evidence or other material in connection with the appointment.
- (2) The regulations may provide for the amounts to be determined by the Treasury or such other person as the regulations may specify.
- (3) The regulations may provide for the amounts paid to be calculated in accordance with, —
 - (a) a rate or scale specified in the regulations, or
 - (b) other provision made by or under the regulations.

Tynwald procedure for regulations under this section — approval required.».
- (5) After the heading “Part 10 – sentencing principles”, but before section 41, insert –

«40A Sentencing Council

- (4) The Department may by Regulations establish a Sentencing Council ("the Council").

Tynwald procedure – approval required.
- (5) Regulations under subsection (1) may provide for —
 - (a) the constitution of the Council;
 - (b) the person to chair the Council;
 - (c) the functions and operation of the Council;
 - (d) the membership of the Council, which must include judicial and non-judicial members;
 - (e) the eligibility requirements for appointment to the Council;
 - (f) the term of office, resignation and re-appointment of any member of the Council;
 - (g) the grounds and procedures for removing any member of the Council;
 - (h) the proceedings of the Council including quorum, the arrangements for meetings and the matters which are to be discussed by the Council, which may be such matters as the Department agrees with the Council;
 - (i) any remuneration of the members of the Council;
 - (j) the preparation, consultation and publication of any sentencing guidelines;
 - (k) the publication of reports of any activities of the Council.
- (3) The Department must consult the Judge of Appeal and the Deemsters before making regulations under this section.

- (4) A court must have regard to sentencing guidelines (if any) in relation to an offence in respect of which it is sentencing a defendant unless the court considers that it would not be in the interest so justice to do so in the particular circumstances of the case.».

- (6) After section 41 (influence of alcohol: effect on sentence), insert –

«41A Hostility or vulnerability: effect on sentence

P2020/17/66 and drafting

- (1) This section applies where a court is considering the seriousness of an offence which is aggravated by –
 - (a) racial hostility;
 - (b) religious hostility;
 - (c) hostility related to disability;
 - (d) hostility related to sexual orientation;
 - (e) hostility related to transgender identity; or
 - (f) the vulnerability of the victim.
- (2) The court –
 - (a) must treat the fact that the offence is aggravated by hostility of any of the types described subsection (1)(a) to (e), or the vulnerability of the victim as an aggravating factor; and
 - (b) must state in open court that the offence is so aggravated.
- (3) For the purposes of this section, an offence is aggravated by hostility of one of the kinds mentioned in subsection (1)(a) to (e) if –
 - (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrated towards the victim of the offence hostility based on –
 - (i) the victim's membership (or presumed membership) of a racial group;
 - (ii) the victim's membership (or presumed membership) of a religious group;
 - (iii) a disability (or presumed disability) of the victim;
 - (iv) the sex or sexual orientation (or presumed sexual orientation) of the victim, or (as the case may be);
 - (v) the victim being (or being presumed to be) transgender; or
 - (b) the offence was motivated (wholly or partly) by –
 - (i) hostility towards members of a racial group based on their membership of that group;

- (ii) hostility towards members of a religious group based on their membership of that group;
 - (iii) hostility towards persons who have a disability or a particular disability;
 - (iv) hostility towards persons who are of a particular sex or sexual orientation, or (as the case may be),
 - (v) hostility towards persons who are transgender.
- (4) For the purposes of paragraphs (4)(a) and (b), it is immaterial whether or not the offender's hostility is also based, to any extent, on any other factor not mentioned in that paragraph.
- (5) In this section—
 - (a) references to a racial group are to a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins;
 - (b) references to a religious group are to a group of persons defined by reference to religious belief or lack of religious belief;
 - (c) “membership” in relation to a racial or religious group, includes association with members of that group;
 - (d) “disability” means any physical or mental impairment;
 - (e) references to being transgender include references to being transsexual, or undergoing, proposing to undergo or having undergone a process or part of a process of gender reassignment;
 - (f) “presumed” means presumed by the offender.
- (6) For the purposes of this section, the court, when considering the vulnerability of the victim may, in particular, have regard to the –
 - (a) the age of the victim; or
 - (b) whether the victim is pregnant or has recently given birth.

41B Assaults on emergency workers and frontline workers: aggravating factors

P2020/17/67 and drafting

- (1) This section applies where a court is considering the seriousness of an offence listed in subsection (3).
- (2) If the offence was committed against an emergency worker or a frontline worker acting in the exercise of functions as such a worker, the court—
 - (a) must treat that fact as an aggravating factor; and
 - (b) must state in open court that the offence is so aggravated.

- (3) The offences referred to in subsection (1) are—
- (a) an offence under any of the following provisions of the *Criminal Code 1872* –
 - (i) section 20 (manslaughter);
 - (ii) section 31 (threats to kill or cause serious injury);
 - (iii) section 33 (shooting or wounding with intent to do grievous bodily harm);
 - (iv) section 35 (inflicting bodily injury, with or without weapon);
 - (v) section 36 (choking, suffocation and strangulation);
 - (vi) section 37 (using chloroform to commit offence triable on information);
 - (vii) section 38 (maliciously administering poison, etc, so as to endanger life, or inflict grievous bodily harm);
 - (viii) section 39 (maliciously administering poison, etc, with intent to injure, aggrieve or annoy any other person);
 - (ix) section 43 (causing bodily injury by explosive);
 - (x) section 44 (causing gunpowder to explode, or sending explosive, or throwing corrosive fluid, with intent to do grievous bodily harm);
 - (xi) section 45 (placing explosive near a building with intent to do bodily injury);
 - (xii) section 46 (setting spring guns, etc, with intent to inflict grievous bodily harm);
 - (xiii) section 60 (assault or battery occasioning actual bodily harm);
 - (xiv) section 60C (kidnapping);
 - (xv) section 60D (hostage-taking);
 - (b) an offence under any of the following provisions of the *Sexual Offences and Obscene Publications Act 2021* –
 - (i) section 4 (rape);
 - (ii) section 5 (assault by penetration);
 - (iii) section 6 (sexual assault);
 - (c) an inchoate offence in relation to any of the preceding offences.
- (4) In this section “emergency worker” and “frontline worker” have the meaning given by section 41C.
- (5) Nothing in this section prevents a court from treating the fact that an offence was committed against an emergency worker or

frontline worker acting in the exercise of functions as such as an aggravating factor in relation to offences not listed in subsection (3).

41C Meaning of “emergency worker” and “frontline worker” for the purposes of section 41B

P2020/17/68 and drafting

(1) In section 41B, “emergency worker” or “frontline worker” means –

- (a) a constable;
- (b) a person (other than a constable) who has the powers of a constable or is otherwise employed for police purposes or is engaged to provide services for police purposes;
- (c) a prison officer;
- (d) a person (other than a prison officer) employed or engaged to carry out functions in a custodial institution of a corresponding kind to those carried out by a prison officer;
- (e) a prisoner custody officer, so far as relating to the exercise of escort functions;
- (f) a custody officer, so far as relating to the exercise of escort functions;
- (g) a person employed for the purposes of providing, or engaged to provide, fire services or fire and rescue services;
- (h) a person employed for the purposes of providing, or engaged to provide, search services or rescue services (or both);
- (i) a person employed for the purposes of providing, or engaged to provide –

(i) general medical services (within the meaning of the *National Health Service Act 2001*); or

(ii) services in the support of the provision of general medical services,

and whose general activities in doing so involve face to face interaction with individuals receiving the services or with other members of the public;

- (j) a social care worker or a person employed in a care service;
- (k) a person employed in a court or tribunal (including, for the avoidance of doubt, a judge or any court officer);
- (l) a probation officer or any person employed for the purpose of supervising a person sentenced to a community order.

(2) It is immaterial for the purposes of subsection (1) whether the employment or engagement is paid or unpaid.

(3) In this section—

“custodial institution” means –

- (a) an institution for the detention of detainees provided for under section 11 of the *Custody Act 1995*;
- (b) a place at which a person may be detained in accordance with paragraph 6 of Schedule 2 (administrative provisions as to control on entry etc) to the *Immigration Act 1971* (as extended to the island by Order in Council);

“care service” has the meaning given in section 8 of the *Regulation of Care Act 2013*;

“custody officer” shall be construed in accordance with the *Police Powers and Procedures Act 1998*;

“escort functions” means the functions specified in section 1 of the *Prisoner Escorts Act 2008*;

“prisoner custody officer” has the meaning given in section 5 of *Prisoner Escorts Act 2008*;

“social care worker” has the meaning given in section 139 of the *Regulation of Care Act 2013*;

(4) The Department may by order amend this section to add, amend or remove a person who is an emergency worker or frontline worker for the purposes of this section or section 41D.

Tynwald procedure – approval required.

41D Assault or battery perpetrated against emergency workers or frontline workers

P2003/17/67 and drafting

(1) This section applies where—

- (a) a court is considering the seriousness of an offence listed in subsection (3), and
- (b) the offence is not aggravated under section 41B(2).

(2) If the offence was committed against a person providing a public service, performing a public duty or providing services to the public, the court –

- (a) must treat that fact as an aggravating factor, and
- (b) must state in open court that the offence is so aggravated.

(3) For the purposes of subsection (1) and section 41A(2), the circumstances in which an offence is to be taken as committed against a person acting in the exercise of functions as an emergency worker include circumstances where the offence takes place at a time when the person is not at work but is carrying out functions

which, if done in work time, would have been in the exercise of functions as an emergency worker or frontline worker.

(4) An offence to which this section applies is to be treated as an aggravated assault under section 59 of the *Criminal Code 1872* and a person guilty of such offence is to be sentenced accordingly for the offence of aggravated assault.».

(7) After section 49 (sections 47 and 48: supplementary), insert –

«49A Testing detainees for drugs or alcohol

(1) A person supervising an offender (“supervisor”) in respect of whom a community order (within the meaning given in section 47) has been imposed may require the offender to provide one or more samples for the purpose of ascertaining whether the detainee has in his or her body –

- (a) any drug, alcohol or tobacco; or
- (b) any residue, derivative or metabolite of a drug, alcohol or tobacco.

(2) The Department must by order make or approve a code of practice in respect of the taking of a sample under this section.

(3) The requirement for a sample must be made in accordance the code of practice under subsection (2).

(4) The sample must be provided at such place as may be directed by the supervisor.

(5) The sample must be –

- (a) a sample of urine;
- (b) a sample of breath; or
- (c) a non-intimate sample.

(6) In this section –

“drug” means –

- (a) any substance which is a controlled drug within the meaning of the *Misuse of Drugs Act 1976*; or
- (b) any psychoactive substance (not being a controlled drug, alcohol or tobacco) which is prescribed, or of a description which is prescribed, for the purposes of this section;

“non-intimate sample” has the same meaning as in Part V of the *Police Powers and Procedures Act 1998*; and

“psychoactive substance” means a substance which is capable, by stimulating or depressing a person’s central nervous system, of affecting his or her mental functioning or emotional state.».

DIVISION 4 — REPEALS

115 Repeals

The following are repealed, —

- (a) section 1(b) of the *Criminal Evidence Act 1946*; and
- (a) sections 12, 31, 32, 35 and 36 of the *Criminal Justice, Police Powers and Other Amendments Act 2014*.

SCHEDULE 1

AMENDMENTS

[Section 10(2)]

DIVISION 1 — AMENDMENTS TO THE CRIMINAL CODE 1872

1 Criminal Code 1872 amended

The *Criminal Code 1872* is amended as follows.

2 Offences constituting treason — ss. 2 to 5 amended

In sections 2 to 5 omit “feloniously and traitorously”.

3 Treason: requirement to plead an overt act in the information, — s. 6 amended

- (1) Section 6 is amended as follows.
- (2) For “expressly laid in the indictment” substitute «expressly pleaded in the information charging the offence».
- (3) The heading to the section accordingly becomes «Requirement to plead overt act in information».

4 Punishment of treason — s. 7 substituted

For section 7 substitute, —

«7 **Punishment of treason**

| A person convicted of treason must be sentenced to custody for life.».

5 Devising treason — ss. 8 and 9 amended

- (1) In —
 - (a) the cross-heading preceding section 8 ~~omit “Treason felony, and”~~ for “Treasury-felony, and offences against the Queen’s” substitute «Offences against the Sovereign’s» ;
 - (b) section 8 —
 - (i) ~~for “of felony”~~ substitute «of an offence»; and
 - (ii) ~~for “imprisonment”~~ substitute «custody».
 - (i) for “Lady the Queen, her” substitute «Sovereign, His or Her»;

- (ii) for “Her Majesty’s dominions or countries, or to levy war against Her Majesty, her heirs” substitute «His or Her Majesty’s dominions or countries, or to levy war against His or Her Majesty, His or Her heirs»;
- (iii) for “compel her or them to change her or their” substitute «compel Him or Her or them to change His or Her or their»;
- (iv) for “Her Majesty’s dominions or countries under the obeisance of Her Majesty, her heirs” substitute «His or Her Majesty’s dominions or countries under the obeisance of His or Her Majesty, His or Her heirs»;
- (v) for “of felony” substitute «of an offence»; and
- (vi) for “imprisonment” substitute «custody».

(2) In section 9 for “any felony” substitute «any offence».

6 Inciting to mutiny — s. 11 amended

~~In section 11 for the words from “of felony” to the end substitute —~~

In section 11 —

- (a) For “Her Majesty’s” in both places where it appears substitute «His or Her Majesty’s»;
- (b) For the words from “of felony” to the end substitute —
 «of an offence.
 Maximum penalty (on information) — custody for life.».

7 Discharging or aiming firearms, etc, at Sovereign — s. 12 amended

In section 12 —

- (a) omit “or attempt to discharge,” (where it first occurs);
- (b) omit “or attempt to discharge or cause to be discharged,”;
- (c) omit “, or attempt to strike or to strike at”;
- (d) omit “or attempt to throw”; and
- (e) for the words from “guilty of a high misdemeanour” to the end of the section substitute, —
 «guilty of an offence.
 Maximum penalty (on information) — 8 years’ custody.».

8 Supplementary provisions about offences against Government — ss. 14 and 15 amended

- (1) In section 14 for “the eighth, eleventh, twelfth, or thirteenth sections hereof contained” substitute «section 8, 11 or 12», and in the heading to that section for “11, 12 and 13” substitute «11 or 12».

- (2) In section 15, —
 - (a) for “the eighth, eleventh, twelfth, or thirteenth sections hereof” substitute «section 8, 11 or 12»; and
 - (b) for “indictment” in both places substitute «information».

9 Meetings for illegal training or drilling — s. 16 amended

- (1) Section 16 is amended as follows.
- (2) At the beginning of the section insert «(1)».
- (3) For “shall be and the same are hereby prohibited,” substitute «are prohibited,».
- (4) Immediately after “her Government.” for “And whosoever shall be present at, or attend” substitute, —
 - «(2) A person who is present at, or attends».
- (5) For the words from “or whosoever shall aid or assist therein, shall be guilty of a misdemeanour” to “five years, or to be imprisoned for a term not exceeding two years, as the discretion of the Court” substitute —
 - «or aids or assists in such training or drilling, is guilty of an offence.
 - Maximum penalty —
 - (a) (on information) 5 years’ custody or a fine;
 - (b) (summary) 12 months’ custody or a fine of level 5.».
- (6) For the words from “And whosoever shall attend or be present at any such meeting or assembly as aforesaid for the purpose of being,” to the end of the section substitute, —
 - «(3) A person who is trained or drilled as mentioned in subsection (2), or is present at any such meeting or assembly to be so trained or drilled is guilty of an offence.
 - Maximum penalty, —
 - (a) ~~(summary (High Bailiff)) 2 years’ custody or a fine;~~
 - (b) ~~(summary) 12 months’ custody or a fine of level 5.~~
 - Maximum penalty (summary) 2 years’ custody and a fine.
 - (4) This section does not apply to training and drilling which is carried out at a school (within the meaning of section 59 of the *Education Act 2001*) with the consent of the school’s head teacher.».

10 Murder — s. 18 amended

In section 18 —

- (a) omit “and feloniously”; and

- (b) for the words following “murder” substitute «and on conviction must be sentenced to custody for life».

11 Conspiring or soliciting to commit murder — s.19 amended

~~In section 19 for the words from “shall be guilty of a misdemeanour” to the end of the section substitute, —~~

In section 19 –

- (a) for “Her Majesty or not, and whether he be within the Queen’s dominions or not,” in both places where it appears substitute «His or Her Majesty or not, and whether he be within His or Her Majesty’s dominions or not»;
- (b) for the words from “shall be guilty of a misdemeanour” to the end of the section substitute, -«is guilty of an offence.
- Maximum penalty (on information) — custody for life.».

12 Manslaughter — s. 20 amended

In section 20 –

- (a) omit “and feloniously”;
- (b) for “imprisonment” substitute «custody»;
- (c) for “an indictment for manslaughter” substitute «an information charging the accused with manslaughter».

13 Excusable homicide — s. 22 repealed

- (1) Section 22 is repealed.
- (2) The repeal contained in subparagraph (1) does not affect the defences available in proceedings for homicide.

14 Threats to kill or cause serious injury — s. 31 amended

- (1) For the cross-heading “Letters threatening to murder” substitute «Threats to kill».
- (2) In section 31 for the words following “it will be carried out” substitute, —
- «is guilty of an offence.
- Maximum penalty (on information) — 10 years’ custody.».

15 Impeding endeavours to save life of shipwreck victim — s. 32 substituted

For section 32 substitute, —

«32 Impeding endeavours to save life of shipwreck victim

A person commits an offence if the person unlawfully and maliciously, —

- (a) prevents or impedes another person ("V") who is on board or has quit any ship or vessel which is in distress, wrecked, stranded or aground in V's endeavour to save V's life; or
- (b) prevents or impedes a person ("R") in R's endeavour to save V's life.

Maximum penalty (on information) custody for life.».

16 Shooting or wounding with intent to do grievous bodily harm —s. 33 amended

In section 33, —

- (a) for "Whosoever shall" substitute «A person who shall»;
- (b) for "felony" substitute «an offence»; and
- (c) for "imprisonment for life" substitute «custody for life».

17 Inflicting bodily injury, with or without a weapon —s. 35 amended

In section 35, for the words from "guilty of a misdemeanour" to the end substitute, —

«guilty of an offence.

Maximum penalty, —

- (a) (on information) — 5 years' custody or a fine;
- (b) (summary) — 12 months' custody or a fine of level 5.».

18 Attempting to choke, etc in order to commit indictable offence — s. 36 substituted

For section 36 substitute, —

«36 Choking, suffocation and strangulation

Statutes of New South Wales 1900/40/37 (as substituted by NSW 2014/23/Sch. 1)

- (1) A person is guilty of an offence if the person, —
 - (a) intentionally chokes, suffocates or strangles another person so as to render the other person unconscious, insensible or incapable of resistance; and
 - (b) is reckless as to rendering the other person unconscious, insensible or incapable of resistance.
- (2) A person is guilty of an offence if the person, —
 - (a) chokes, suffocates or strangles another person so as to render the other person unconscious, insensible or incapable of resistance; and

- (b) does so with the intention of enabling himself or herself to commit, or assisting any other person to commit, an offence triable on information (other than one under this section).

Maximum penalty (on information) — custody for life.».

18A New section inserted: consent to injury or risk of death for sexual gratification not a defence

Immediately after section 36, insert the following —

“36A Consent to injury or risk of death for sexual gratification not a defence

- (1) A person (“A”) charged with a relevant offence is forbidden from raising as a defence the assertion that the victim of the conduct constituting the offence consented to the conduct being engaged in for the purposes of sexual gratification.
- (2) For the purposes of this section, it does not matter —
 - (a) whether the sexual gratification for which the conduct was engaged in was that of A, the victim, or another person; or
 - (b) whether or not the injury or death which resulted from the conduct occurred in the course of a sadomasochistic encounter.
- (3) At a trial of a person charged with a relevant offence, except with the leave of the court, on a written application made by the defence or the prosecution, —
 - (a) no evidence may be adduced; and
 - (b) no question may be asked in cross-examination, about any sexual behaviour of the victim.
- (4) A court in making a determination in respect of subsection (3) may direct that —
 - (a) the cross examination of a victim must not involve any matter appertaining to the victim’s —
 - (i) appearance;
 - (ii) sexual behaviour or sexual history with any third party not related to the current proceedings, regardless of the nature of the victim’s alleged behaviour either before or subsequent to the current proceedings; and
 - (b) such matters are not admissible as evidence if the purpose (or main purpose) is to undermine the credibility of the victim, unless it would be manifestly unjust to treat those matters as inadmissible.

- (5) The court may give leave in relation to any evidence or question only on a written application made by the defence or the prosecution, and may not give such leave unless it is satisfied —
 - (a) that subsection (6) or (8) applies;
 - (b) that the probative value of the evidence sought to be admitted or elicited is significant and is likely to outweigh any risk of prejudice to the proper administration of justice arising from its being admitted or elicited; and
 - (c) that a refusal of leave might have the result of rendering unsafe a conclusion of the jury or (as the case may be) the court on any relevant issue in the case.
- (6) This subsection applies if the evidence or question relates to a relevant issue in the case and that issue is not an issue of consent.
- (7) For the purposes of subsection (6) no evidence or question shall be regarded as relating to a relevant issue in the case if it appears to the court to be reasonable to assume that the purpose (or main purpose) for which it would be adduced or asked is to establish or elicit material for impugning the credibility of the victim (whether or not the victim is a witness).
- (8) This subsection applies if the evidence or question —
 - (a) relates to any evidence adduced by the prosecution about any sexual behaviour of the victim; and
 - (b) in the opinion of the court, would go no further than is necessary to enable the evidence adduced by the prosecution to be rebutted or explained by or on behalf of the accused.
- (9) For the purposes of subsections (6) and (8) the evidence or question must relate to a specific instance (or specific instances) of alleged sexual behaviour on the part of the victim (and accordingly nothing in those subsections is capable of applying in relation to the evidence or question to the extent that it does not so relate).
- (10) Where this section applies in relation to a trial by virtue of the fact that one or more of a number of persons charged in the proceedings is or are charged with a relevant offence —
 - (a) it shall cease to apply in relation to the trial if the prosecutor decides not to proceed with the case against that person or those persons in respect of that charge; but
 - (b) it shall not cease to do so in the event of that person or those persons pleading guilty to, or being convicted of, that charge.

- (11) Nothing in this section authorises any evidence to be adduced or any question to be asked which cannot be adduced or asked apart from this section.

36B Interpretation and application of section 36A

- (1) In section 36A —
- (a) **“relevant issue in the case”** means any issue falling to be proved by the prosecution or defence in the trial of the accused;
 - (b) **“issue of consent”** means any issue whether the victim in fact consented to the conduct constituting the offence with which the accused is charged (and accordingly does not include any issue as to the belief of the accused that the victim so consented);
 - (c) **“sexual behaviour”** means any sexual behaviour or other sexual experience, whether or not involving any accused or other person, but excluding (except in subsection (8)(a)) anything alleged to have taken place as part of the event which is the subject matter of the charge against the accused; and
 - (d) subject to any order made under subsection (2), a **“relevant offence”** is —
 - (i) an offence under any of sections 18 to 47, or section 60, of this Act; or
 - (ii) an offence
 - (A) created by an enactment other than this Act; and
 - (B) constituted by an intentional assault, or the intentional infliction of any physical injury, on another person,
 that is committed in the course of, or in furtherance of, sexual activity.
- (2) The Department may by order make such provision as it considers appropriate for adding or removing, for the purposes of section 36A, any offence to or from the offences which are relevant offences for the purposes of section 36A and this section.
- (3) Section 36A applies in relation to the following proceedings as it applies to a trial, namely —
- (a) any hearing held, between conviction and sentencing, for the purpose of determining matters relevant to the court’s decision as to how the accused is to be dealt with; and
 - (b) the hearing of an appeal,

and references (in section 36A or this section) to a person charged with an offence accordingly include a person convicted of an offence.

36C Procedure on applications under section 36A

- (1) An application for leave shall be heard in private and in the absence of the victim.

In this section “**leave**” means leave under section 36A.

- (2) Where such an application has been determined, the court must state in open court (but in the absence of the jury, if there is one) —

- (a) its reasons for giving, or refusing, leave; and
- (b) if it gives leave, the extent to which evidence may be adduced or questions asked in pursuance of the leave,

and, if it is a court of summary jurisdiction, must cause those matters to be entered in the register of its proceedings.

- (3) Rules of court may make provision —

- (a) requiring applications for leave to specify, in relation to each item of evidence or question to which they relate, particulars of the grounds on which it is asserted that leave should be given by virtue of subsection (6) or (8) of section 36A;
- (b) enabling the court to request a party to the proceedings to provide the court with information which it considers would assist it in determining an application for leave;
- (c) for the manner in which confidential or sensitive information is to be treated in connection with such an application, and in particular as to its being disclosed to, or withheld from, parties to the proceedings.”.

19 Using chloroform, etc to commit offence – s. 37 amended

- (1) Section 37 is amended as follows.

- (2) For the heading substitute, —

«37 Using chloroform to commit offence triable on information».

- (3) For “Whosoever shall” substitute «A person who shall».

- (4) Omit —

- (a) “, or attempt to apply or administer to, or attempt to cause to be administered to, or taken by,”; and
- (b) “in any of such cases” (in both places).

- (5) For the words following “committing” substitute, —

«an offence triable on information commits an offence.

Maximum penalty (on information) — custody for life.».

20 Administering poisons — ss.38 and 39 amended and 40 substituted

(1) In section 38 —

(a) for “Whosoever shall” substitute «Any person who shall»;

(b) for the words from “felony” to the end of the section substitute —

«an offence.

Maximum penalty (on information) — 10 years’ custody.».

(2) In section 39, —

(a) for “Whosoever shall” substitute «Any person who shall»; and

(b) for the words from “a misdemeanour” to the end of the section substitute, —

«an offence.

Maximum penalty (on information) — 8 years’ custody.».

(3) For section 40 substitute —

«40 Administering poisons — alternative verdict

(1) If, on the trial of a person for an offence under section 38, the court, —

(a) is not satisfied that the person is guilty of that offence, but

(b) is satisfied that he or she is guilty of an offence under section 39,

the court may find the person not guilty of the offence under section 38 but guilty of that under section 39.

(2) For the sake of clarity, where the court finds the person guilty by virtue of subsection (1), the person may be sentenced as if he or she had been convicted upon an information charging the offence under section 39.

(3) In a case where the person’s guilt is to be determined by a verdict of a jury, references in this section to the court are to be read as references to the jury.».

21 Exposing children whereby life is endangered — s. 42 amended

In section 42 —

(a) for “Whosoever shall” substitute «Any person who shall»;

(b) for the words from “a misdemeanour” to the end of the section substitute, —

«an offence.

Maximum penalty (on information) — 8 years' custody.»; and

- (c) for the section heading substitute «“Exposing infants so as to endanger life».

22 Offences relating to explosives etc. — ss. 43 to 45 amended

- (1) In sections 43 and 44 —

- (a) for “Whosoever shall” substitute «Any person who shall»;

- (b) for the words from “felony” to the end of the respective section substitute, —

«an offence.

Maximum penalty (on information) — custody for life.».

- (2) In section 45, —

- (a) for “Whosoever shall” substitute «Any person who shall»; and

- (b) for the words following “guilty” substitute, —

«of an offence.

Maximum penalty (on information) — 14 years' custody.».

23 Endangering railway passengers — s. 47 amended

- (1) In section 47 —

- (a) for “Whosoever,” substitute «Any person who,»;

- (b) for the words from “shall be guilty” to the end substitute, —

«is guilty of an offence.

Maximum penalty (on information) — 5 years' custody.».

- (2) For the section heading substitute «Endangering railway passengers».

24 Assault on a peace officer or to commit an offence — section 51 substituted

For section 51 substitute, —

«51 Assault to resist arrest or with intent to commit offence

A person (“P”) is guilty of an offence if P assaults any person with intent, —

- (a) to commit an offence; or

- (b) to resist or prevent the arrest or lawful detention of P or another.

Maximum penalty for an offence under this section, —

- (a) ~~(summary (High Bailiff)) 2 years' custody or a fine; or~~
 (b) ~~(summary) 12 months' custody or a fine of level 5.~~
Maximum penalty (summary) 2 years' custody and a fine.».

25 Assaulting coroner etc — s. 52 substituted

For section 52 substitute, —

«52 Assaulting coroner or other peace officer in execution of that officer's duty

A person is guilty of an offence if the person assaults, beats, resists or wilfully obstructs, —

- (a) any coroner, lockman, sumner or peace officer in the execution of that officer's duty; or
 (b) any person assisting any such officer as is mentioned in paragraph (a).

~~Maximum penalty for an offence under this section, —~~

- (a) ~~(summary (High Bailiff)) 2 years' custody or a fine; or~~
 (b) ~~(summary) 12 months' custody or a fine of level 5.~~

Maximum penalty (summary) 2 years' custody and a fine.».

26 Aggravated assaults — section 59 amended

- (1) Section 59 is amended as follows.
 (2) Renumber the existing text as subsection (1), subject to the following provisions of this section.
 (3) For “prosecution by indictment” substitute «prosecution».
 (4) For the words from “a misdemeanour” to the end of the section substitute —

«an offence.

~~Maximum penalty, —~~

- (a) ~~(summary (High Bailiff)) 2 years' custody or a fine;~~
 (b) ~~(summary) 12 months' custody or a fine of level 5.~~

Maximum penalty (summary) 2 years' custody and a fine. ».

- (2) If an assault or battery in respect of which a complaint is made under this section has occasioned actual bodily harm, the offender shall be liable to be prosecuted under section 60.».

27 Assault occasioning actual bodily harm: section 60 substituted

For section 60 substitute, —

«60 Assault or battery occasioning actual bodily harm

A person who assaults or beats another, thereby occasioning the other actual bodily harm, commits an offence.

Maximum penalty, —

- (a) (on information) 5 years' custody ~~or~~ and a fine;
- (b) (summary) 12 months' custody ~~or~~ and a fine of level 5.».

28 Penalties for ss 60B to 60D, — s. 60E amended

In section 60E —

- (a) omit “shall be guilty of a felony and”; and
- (b) for “be imprisoned” (in both places) substitute «custody».

29 Bigamy — s. 70 amended

- (1) Section 70 is amended as follows.
- (2) At the beginning insert «(1)».
- (3) For “Whosoever,” substitute «Any person who,»;
- (4) For the words from “shall be guilty” to “ten years” substitute, —
 - « “is guilty of an offence.
 - Maximum penalty (on information) — 10 years' custody.».
- (5) For everything from “and any such offence” substitute, —
 - « (2) Any such offence may be dealt with, tried, determined and punished in the Island if either the first or second marriage was contracted in the Island.
 - (3) This section does not apply, —
 - (a) to a second marriage contracted outside the Island unless at least one of the parties to it is a British subject;
 - (b) to a person marrying for a second time whose spouse —
 - (i) has been continually absent from that person for at least 7 years; and
 - (ii) has not been known to that person to be living within that time;
 - (c) to a person who at the time of the second marriage has been divorced from his or her former spouse; or
 - (d) to a person whose former marriage has been declared void by a court of competent jurisdiction.».

30 Concealing the birth of a child — s. 73 amended

- (1) Section 73 is amended as follows.
- (2) The proviso is repealed.
- (3) For the words following “shall be guilty of” substitute —

«an offence.

~~Maximum penalty —~~

~~(a) (summary (High Bailiff)) 2 years’ custody or a fine;~~

~~(b) (summary) 12 months’ custody or a fine of level 5.~~

Maximum penalty (summary) 2 years’ custody and a fine.».

31 Alternative verdicts of wounding and assault — ss. 82 and 83 substituted

- (1) For section 82 substitute, —

«82 Trial on information — alternative verdict of wounding

- (1) If, on the trial of an information for an offence other than murder or manslaughter —

(a) the information alleges that the accused wounded any person; and

(b) the jury —

(i) are satisfied that the accused is guilty of the wounding alleged, but

(ii) are not satisfied that the accused is guilty of the offence actually charged in the information,

the jury may acquit the accused of the offence actually charged in the information but find the accused guilty of the wounding.

- (2) Where, in accordance with subsection (1), a jury find the accused guilty, of wounding, the accused may be sentenced as if he or she had been convicted on an information charging the offence of unlawful and malicious wounding contrary to section 35.

- (3) In a case where the defendant’s guilt is to be determined by a Deemster alone, (see sections 8A to 8C of the *Criminal Jurisdiction Act 1994* **1993**) references to the jury in subsections (1) and (2) are to be read as references to the Deemster.

- (4) **In a case where the defendant’s guilt is to be determined by a court of summary jurisdiction (see section 1A of the *Summary Jurisdiction Act 2001*), references to the jury in subsections (1) and (2) are to be read as references to the court of summary jurisdiction and section 36A (alternative verdicts) of that Act applies to such a case.».**

- (2) For section 83 substitute, —

«83 Trial on information — alternative verdict of assault

- (1) If, on the trial of an information for any offence, —
 - (a) the information alleges, as a component of the offence charged, that the accused assaulted any person, and
 - (b) the jury —
 - (i) are satisfied that the accused is guilty of the assault alleged, but
 - (ii) are not satisfied that the accused is guilty of the offence actually charged in the information,

the jury may acquit the accused of the offence actually charged in the information but find the accused guilty of the assault.

Maximum penalty (on information) in the case of an assault proved under this subsection — 2 years' custody.
- (2) Section 82(3) and (4) applies for the purposes of this section as it applies for the purposes of section 82.».

32 Placing wood, etc. on railway with intent to obstruct engine, — s. 116 amended

- (1) Section 116 is amended as follows.
- (2) For "Whosoever" substitute «A person who».
- (3) For the words from "guilty" to the end substitute, —
 - «guilty of an offence.
 - Maximum penalty (on information) — custody for life.».

33 Casting wood, etc. upon railway carriage — s. 117 amended

- (1) Section 117 is amended as follows.
- (2) For "Whosoever" substitute "A person who".
- (3) For the words from "guilty" to the end substitute, —
 - «guilty of an offence.
 - Maximum penalty (on information) — custody for life.».

34 Endangering the safety of travellers — s. 118 amended

- (1) Section 118 is amended as follows.
- (2) For "Whosoever" substitute "A person who".
- (3) For the words from "guilty" to the end substitute, —
 - «guilty of an offence.

Maximum penalty, —

- (a) (on information) 5 years' custody or a fine;
- (b) (summary) 12 months' custody ~~or~~ and a fine of level 5.».

35 Obstructing engines or carriages on railways — s. 119 amended

- (1) Section 119 is amended as follows.
- (2) For "Whosoever" substitute "A person who".
- (3) For the words from "guilty" to the end substitute, —

«guilty of an offence.

Maximum penalty, —

- (a) (on information) 5 years' custody ~~or~~ and a fine;
- (b) (summary) 12 months' custody ~~or~~ and a fine of level 5.».

36 Exhibiting false signals, etc. — s. 130 amended

- (1) Section 130 is amended as follows.
- (2) For "Whosoever" substitute "A person who".
- (3) For "hereinbefore" substitute "otherwise".
- (4) For the words from "guilty" to the end substitute, —

«guilty of an offence.

Maximum penalty (on information) — custody for life.».

37 Removing or concealing buoys and other sea marks — s. 131 amended

- (1) Section 131 is amended as follows.
- (2) For "Whosoever" substitute "A person who".
- (3) For the words from "guilty" to the end substitute, —

«guilty of an offence.

Maximum penalty (on information) — 10 years' custody.».

38 Making gunpowder for the commission of other offences — s. 136 substituted

For section 136 substitute, —

«136 Making or possessing articles to commit offences

A person ("P") who makes or knowingly has in P's possession any substance or thing intending that P or another should use it to commit any other offence under this Act, is guilty of an offence.

Maximum penalty (on information) — 5 years' custody.».

39 Acknowledging recognizance, etc. in name of another without authority: section 275 amended

- (1) Section 275 is amended as follows.
- (2) For "Whosoever" substitute "A person who".
- (3) For the words following "in that behalf," substitute, —

«is guilty of an offence.

Maximum penalty (on information) — 10 years' custody.».

40 Obstructing officers of courts etc: section 318 amended

- (1) Section 318 is amended as follows.
- (2) For "Whosoever shall maliciously" substitute, —

«(1) A person who shall maliciously».
- (3) For "or whosoever shall knowingly" substitute «or knowingly»
- (4) For the words from "a misdemeanour" to the end substitute —

«an offence.

Maximum penalty —

 - (a) (on information) 2 years' custody **and a fine**;
 - (b) (summary 12 months' custody ~~or~~ **and** a fine not exceeding level 5.
- (2) This section does not limit any other power of a court or a judge of any court, existing before the coming into operation of this section as originally enacted, to deal with contempt of court.».

41 Neglecting to execute writs: s 319 amended

In section 319 for "a misdemeanour" substitute «an offence».

42 Breaking prison, etc: section 320 substituted

For section 320 substitute, —

«320 Escaping from an institution or other lawful custody

- (1) A person who escapes from an institution in which he or she is lawfully detained is guilty of an offence.
- (2) A person who escapes at a time when he or she has been lawfully arrested is guilty of an offence.

- (3) Expressions used in subsection (1) which are defined in the *Custody Act 1995* have the same meaning in that subsection as they have in that Act.».

43 Punishment of offences under ss. 319 and 320 — s. 321 substituted

For section 321 substitute, —

~~«321 Maximum penalties for offences under section 319 and 320~~

~~A person guilty of an offence under section 319 or 320 is liable on summary conviction —~~

- ~~(a) in proceedings before the High Bailiff to 2 years' custody or a fine; and~~
~~(b) in any other case to 12 months' custody or a fine of level 5.».~~

«321 Maximum penalties for offences under section 319 and 320

A person guilty of an offence under section 319 or 320 is liable on summary conviction to 2 years' custody and a fine.».

44 Rescuing person detained or negligently suffering such person to escape: s. 322 substituted

For section 322 substitute, —

«322 Rescuing person detained or negligently suffering such person to escape

- (1) A person who forcibly rescues a person lawfully arrested or detained is guilty of an offence.
- (2) A person who voluntarily permits or negligently suffers a person to escape from lawful arrest or detention is guilty of an offence.
- (3) References in this section to detention have the same meaning as in the *Custody Act 1995*.

Maximum penalty for an offence under this section (on information) — 10 years' custody.».

45 Conspiracy, etc.: s. 330 substituted

For section 330 substitute, —

«330 Conspiracy

P1977/45/1

- (1) Subject to sections 330ZA to 330ZD, if a person (“A”) agrees with any other person or persons that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intentions, either, —
 - (a) will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement; or
 - (b) would do so but for the existence of facts which render the commission of the offence or any of the offences impossible,
 A is guilty of conspiracy to commit the offence or offences in question.
- (2) If liability for any offence may be incurred without knowledge on the part of the person committing it of any particular fact or circumstance necessary for the commission of the offence, A shall nevertheless not be guilty of conspiracy to commit that offence by virtue of subsection (1) unless A and at least one other party to the agreement intend or know that that fact or circumstance shall or will exist at the time when the conduct constituting the offence is to take place.
- (3) In this section and sections 330ZA to 330ZD “offence” means an offence which is triable in the Island.

330ZA Conspiracy to commit an offence outside the Island

P1977/45/1A (omitting subs. (14) and (15))

- (1) Where each of the following conditions is satisfied in the case of an agreement, sections 330 to 330ZD have effect in relation to the agreement as they have effect in relation to an agreement falling within section 330(1).
- (2) The first condition is that the pursuit of the agreed course of conduct would at some stage involve, —
 - (a) an act by one or more of the parties; or
 - (b) the happening of some other event,
 intended to take place in a country or territory outside the Island.
- (3) The second condition is that that act or other event constitutes an offence under the law in force in that country or territory.
- (4) The third condition is that the agreement would fall within section 330(1) as an agreement relating to the commission of an offence but for the fact that the offence would not be an offence

- triable in the Island if committed in accordance with the parties' intentions.
- (5) The fourth condition is that, —
- (a) a party to the agreement, or a party's agent, did anything in the Island in relation to the agreement before its formation; or
 - (b) a party to the agreement became a party in the Island (by joining it either in person or through an agent); or
 - (c) a party to the agreement, or a party's agent, did or omitted anything in the Island in pursuance of the agreement.
- (6) In the application of sections 330 to 330ZD to an agreement in the case of which each of the above conditions is satisfied, a reference to an offence is to be read as a reference to what would be the offence in question but for the fact that it is not an offence triable in the Island.
- (7) Conduct punishable under the law in force in any country or territory is an offence under that law for the purposes of this section, however it is described in that law.
- (8) Subject to subsection (9), the second condition is to be taken to be satisfied unless, not later than rules of court may provide, the defence serve on the prosecution a notice, —
- (a) stating that, on the facts as alleged with respect to the agreed course of conduct, the condition is not in their opinion satisfied;
 - (b) showing their grounds for that opinion; and
 - (c) requiring the prosecution to show that it is satisfied.
- (9) The court may permit the defence to require the prosecution to show that the second condition is satisfied without the prior service of a notice under subsection (8).
- (10) In a Court of General Gaol Delivery, the question whether the second condition is satisfied shall be decided by the Deemster alone, and shall be treated as a question of law for the purposes of any preliminary hearing in relation to the proceedings.
- (11) Any act done by means of a message (however communicated) is to be treated for the purposes of the fourth condition as done in the Island if the message is sent or received in the Island.
- (12) In any proceedings in respect of an offence triable by virtue of this section, it is immaterial to guilt whether or not the accused was a British citizen at the time of any act or other event proof of which is required for conviction of the offence.

- (13) Reference in any enactment, instrument or document (except those in sections 330 to 330ZD) to an offence of conspiracy to commit an offence includes an offence triable in the Island as such a conspiracy by virtue of this section (without prejudice to subsection (6)).
- (14) Nothing in this section imposes criminal liability on any person acting —
 - (a) on behalf of, or holding office under, the Crown; or
 - (b) in his or her capacity as an employee of the Public Services Commission.

330ZB Exemptions from liability for conspiracy

P1977/45/2

- (1) A person shall not, by virtue of section 330, be guilty of conspiracy to commit any offence if he or she is an intended victim of that offence.
- (2) A person shall not, by virtue of section 330, be guilty of conspiracy to commit any offence or offences if the only other person or persons with whom he or she agrees are (both initially and at all times during the currency of the agreement) persons of any one or more of the following descriptions, that is to say, —
 - (a) his or her spouse or civil partner;
 - (b) a person under the age of criminal responsibility; and
 - (c) an intended victim of that offence or of each of those offences.
- (3) A person is under the age of criminal responsibility for the purposes of subsection (2)(b) so long as it is conclusively presumed, by virtue of section 70(1) of the *Children and Young Persons Act 2001*, that he or she cannot be guilty of any offence.

330ZC Penalties for conspiracy

P1977/45/3 and drafting

- (1) A person who is charged with an offence under section 330 or 330ZA is liable to be tried in the same manner as a person charged with the offence which it was intended by the conspirators would be committed if the conspiracy were carried into effect.
- (2) A person who is convicted of an offence under section 330 or 330ZA is liable to the same penalties as might have been imposed for the offence which it was intended by the conspirators would be committed if the conspiracy were carried into effect.

330ZD Institution of proceedings for an offence of conspiracy

P1977/45/4(1) and drafting

Proceedings under section 330 or 330ZA may be instituted only by or with the consent of the Attorney General.».

46 Riot — s. 332 amended

In section 332 —

- (a) for “guilty of a misdemeanour” substitute «guilty of an offence»;
- (b) for “guilty of a riot and a misdemeanour” substitute —

«guilty of an offence.

~~Maximum penalty for an offence under this section —~~~~(a) (summary (High Bailiff)) 12 months’ custody or a fine;~~~~(b) (summary) 12 months’ custody or a fine of level 5.~~**Maximum penalty (summary) 12 months’ custody and a fine.».****47 Forcible entry — s. 333 amended**

In section 333, —

- (a) for “Whosoever shall violently enter” substitute «A person who violently enters»;
- (b) for “shall be guilty of a misdemeanour” substitute, —

«is guilty of an offence.

~~Maximum penalty for an offence under this section, —~~~~(a) (summary (High Bailiff)) 12 months’ custody or a fine;~~~~(b) (summary) 12 months’ custody or a fine of level 5.~~**Maximum penalty (summary) 12 months’ custody and a fine.».****48 Forcible detainer — s. 334 amended**

For section 334 substitute, —

«334 Forcible detainer

A person who unlawfully retains, by menaces or force, any lands or tenements, is guilty of an offence.

Maximum penalty for an offence under this section (summary)— 12 months’ custody ~~or~~ **and** a fine of level 5.».

49 Removing dead bodies to sell — s. 339 amended

- (1) Section 339 is amended as follows.

(2) — For “Whosoever” substitute «A person who».

(2) For “Whosoever remove” substitute «A person who removes».

(3) For “a misdemeanour” substitute, —
 «an offence.
 Maximum penalty (on information) 7 years’ custody.».

50 Purchasing dead bodies — s. 340 substituted

For section 340 substitute, —

«340 Purchasing or receiving corpses unlawfully disinterred

- (1) Any person who purchases or receives a dead body which has been disinterred is guilty of an offence, subject to subsection (2).
 Maximum penalty (on information) 7 years’ custody.
- (2) In proceedings for an offence under subsection (1), it is a defence for the accused to show that the dead body had been lawfully disinterred.».

51 Opening graves to remove bodies for sale or dissection — s. 341 amended

- (1) Section 341 is amended as follows.
- (2) For “Whosoever shall open” substitute «A person who opens».
- (3) For “shall be guilty of a misdemeanour” substitute, —
 «is guilty of an offence.
 Maximum penalty (on information) — 7 years’ custody.».
- (4) For the section heading substitute «Opening graves to remove bodies for sale or dissection».

52 Contamination of, or interference with goods with the intention of causing public alarm or anxiety — s. 342 substituted

For section 342 substitute, —

«342 Contamination of or interference with goods with intention of causing public alarm or anxiety

P1986/64/38

- (1) It is an offence for a person (“P”), with the intention, —
 (a) of causing public alarm or anxiety;
 (b) of causing injury to members of the public consuming or using the goods;

(c) of causing economic loss to any person by reason of the goods being shunned by members of the public; or

(d) of causing economic loss to any person by reason of steps taken to avoid any such alarm or anxiety, injury or loss,

to contaminate or interfere with goods, or make it appear that goods have been contaminated or interfered with, or to place goods which have been contaminated or interfered with, or which appear to have been contaminated or interfered with, in a place where goods of that description are consumed, used, sold or otherwise supplied.

(2) It is also an offence for P, with any such intention as is mentioned in paragraph (a), (c) or (d) of subsection (1), to threaten that P or another will do, or to claim that P or another has done, any of the acts mentioned in that subsection.

(3) It is an offence for P to be in possession of any of the following articles with a view to the commission of an offence under subsection (1)—

(a) materials to be used for contaminating or interfering with goods or making it appear that goods have been contaminated or interfered with; or

(b) goods which have been contaminated or interfered with, or which appear to have been contaminated or interfered with.

(4) In this section “goods” includes substances whether natural or manufactured and whether or not incorporated in or mixed with other goods.

(5) The reference in subsection (2) to a person claiming that certain acts have been committed does not include a person who in good faith reports or warns that such acts have been, or appear to have been, committed.

Maximum penalty, —

(a) (on information) 10 years’ custody ~~or~~ and a fine;

(b) (summary) 12 months’ ~~custody~~, custody and a level 5 fine.».

53 **Perverting or attempting to pervert the course of justice — ss. 347A and 347C inserted**

Insert the following sections, —

«347A Perverting the course of justice

A person is guilty of an offence if the person does or attempts anything which perverts the course of public justice, —

- (a) with the intent that the course of public justice will be defeated or obstructed as a result; or
- (b) with the intent to do anything which if achieved will defeat or obstruct the course of public justice.

Maximum penalty, —

- (a) (on information) 5 years' custody;
- (b) (summary) 12 months' custody ~~or~~ and a fine not exceeding level 5.

347B Outraging public decency

A person is guilty of an offence if he or she does anything outraging public decency.

Maximum penalty, —

- (a) (on information) 5 years' custody;
- (b) (summary) 12 months' custody ~~or~~ and a fine not exceeding level 5.».

54 Accessories to offences — section 350 and 351 substituted

For sections 350 and 351, and the heading preceding section 350 substitute, —

«Accessories, aiders and abettors, etc.

350 Accessories etc.

P1861/94/8 and drafting

- (1) A person who aids, abets, counsels, incites or procures the commission of any offence whether under this Act or any other Manx enactment (whenever passed or made) ("the relevant offence"), commits an offence and is liable to be tried, proceeded against and punished in the same manner as a person alleged to have committed the relevant offence.
- (2) On the trial of a person charged under subsection (1), it is immaterial whether a person has been convicted of the relevant offence.».

55 Insufficient grounds for staying judgment — s. 392 amended

- (1) Section 392 is amended as follows.
- (2) For "indictment for any felony or misdemeanour" substitute «information charging an offence».
- (3) For "punishment, the indictment" substitute «punishment, the information charging the offence».

- (4) For the section heading substitute «Insufficient grounds for staying judgment».

56 Summary conviction a bar to any other criminal proceeding for same cause — s. 403 amended

- (1) Section 403 is amended as follows.
- (2) For “of this Isle, or shall have suffered the imprisonment awarded for non-payment thereof, or the imprisonment adjudged in the first instance” substitute «or have served the term of custody imposed in default of payment, or the term of custody imposed upon conviction,».
- (3) The heading to the section accordingly becomes «Summary conviction a bar to any other criminal proceeding for same cause».

57 Malice against owners of property need not be proved — s. 412 amended

In section 412 for “upon indictment” substitute «upon information».

58 Intent to injure or defraud particular persons need not be stated in any indictment — s. 414 amended

In section 414 for “any indictment” (in the text of the section and the section heading) substitute «any complaint or information».

59 Interpretation — s. 422 amended

- (1) Section 422 is amended as follows.
- (2) Omit the definitions of “cattle”, “document of title to goods”, “document of title to lands”, “felony”, “indictable misdemeanour” and “misdemeanour”.
- (3) In the definition of “indictment” for “indictment” substitute «information».

60 Repeals

- (1) Sections 13, 23 to 28, 41, 46, 49, 50, 55, 77, 79, 120, 121, 150, 153 (and the cross-heading preceding it), 156, 176, 237, 269, 271, 277, 278, 284, 315 to 317, 331, 335 to 337, 347 and 348, 354 to 356 (and the cross-heading preceding the latter), 393, 411, 413 and 415 of the *Criminal Code 1872* are repealed.
- (2) The following cross-headings are repealed —
- Attempts to murder;
- Unnatural offences;
- As to larceny of cattle or other animals;
- As to forging records, process, instruments of evidence, etc.;

As to other matters;

As to accessories generally.

DIVISION 2 – MISCELLANEOUS ENACTMENTS

61 Customary Laws Act 1417

In section 11 of the *Customary Laws Act 1417* omit “~~Points of Felony~~” **“in Points of Felony”**, or delivering of Servants, or”.

62 Evidence Act 1871

- (1) The *Evidence Act 1871* is amended as follows.
- (2) In section 13 for “felony or misdemeanour” substitute «offence».
- (3) Sections 25 and 26 are repealed.

63 Tynwald Proceedings Act 1876

- (1) Section 6 of the *Tynwald Proceedings Act 1876* is amended as follows.
- (2) For “Whosoever shall” substitute «A person who shall».
- (3) For the words following “guilty of” substitute, —

«an offence.
 Maximum penalty (summary) — 6 months’ custody, a level 5 fine or both.»

64 Game Act 1882

Section 38 of the *Game Act 1882* is repealed.

65 Explosive Substances Act 1883

- (1) The *Explosive Substances Act 1883* is amended as follows.
- (2) In section 4 for the words following “lawful object” in subsection (1) substitute, —

«shall be guilty of an offence.
 Maximum penalty (on information) — 14 years’ custody.

 - (1A) The court dealing with an offender convicted under subsection (1) must order the forfeiture of the explosive substance which is the subject of the offence.»
- (3) In section 5 —
 - (a) for “any crime” substitute «an offence»;
 - (b) for “felony” substitute «an offence»; and

- (c) for “that crime” substitute «that offence».

66 Bankruptcy Code 1892

- (1) The *Bankruptcy Code 1892* is amended as follows.
- (2) In section 11(2) for “felony or misdemeanour” substitute «offence».
- (3) In section 86 —
 - (a) for the words from “A bankrupt shall” to “If, with intent to defraud, —” substitute, —

«A bankrupt commits an offence if, with intent to defraud, —»;
 - (b) at the end of the section insert, —

~~«Maximum penalty —~~

~~(a) — (summary (High Bailiff)) 2 years’ custody or a fine;~~

~~(b) — (summary) 12 months’ custody or a fine of level 5.».~~

«Maximum penalty (summary) 2 years’ custody and a fine.».
- (4) In section 87 —
 - (a) for the words following “shall be guilty” substitute, —

«of an offence.

~~Maximum penalty, —~~

~~(a) — (summary (High Bailiff)) 2 years’ custody or a fine;~~

~~(b) — (summary) 12 months’ custody or a fine of level 5.~~

Maximum penalty (summary) 2 years’ custody and a fine.»; and
 - (b) in the heading for “misdemeanour” substitute «offence».
- (5) In section 88 —
 - (a) for the words from “of misdemeanour” to “(that is to say) —” substitute, —

«of an offence, —»;
 - (b) at the end of the section insert, —

~~«Maximum penalty —~~

~~(a) — (summary (High Bailiff)) 12 months’ custody or a fine;~~

~~(b) — (summary) 12 months’ custody or a fine of level 5.~~

Maximum penalty (summary) 12 months’ custody and a fine.».
- (6) Section 94 is repealed.
- (7) For the heading to section 95 substitute, —

«95 No person to be punished twice for same conduct under different

enactments».

67 Industrial and Building Societies Act 1892

- (1) The *Industrial and Building Societies Act 1892* is amended as follows.
- (2) Section 14(6) is repealed.
- (3) Section 18(6) is repealed.
- (4) In section 25, —
 - (a) at the beginning of the section insert «(1)»;
 - (b) for “a misdemeanour” substitute —

«an offence.

~~Maximum penalty, —~~

(a) ~~(summary (High Bailiff) 2 years’ custody or a fine;~~

(b) ~~summary 12 months’ custody or a fine of level 5.~~

Maximum penalty (summary) 2 years’ custody and a fine.»;
 - (c) before “If any society under this Act receives”, insert «(2)».
- (5) Sections 27 and 31 are repealed.

68 Loans (Infants) Act 1907

- (1) The *Loans (Infants) Act 1907* is amended as follows.
- (2) In section 3(1) for the words following “information or advice as to borrowing money” substitute, —

«he or she shall be guilty of an offence.

~~Maximum penalty (summary) 3 months’ custody or~~ **and** ~~a level 4 fine.».~~
- (3) Section 7 is repealed.

~~69 Obscene Publications and Indecent Advertisements Act 1907~~

- ~~(1) The *Obscene Publications and Indecent Advertisements Act 1907* is amended as follows.~~
- ~~(2) In sections 2 and 4 for the words from “shall be guilty” to the end substitute, —~~

~~«is guilty of an offence.~~

~~Maximum penalty, —~~

~~(a) (summary (High Bailiff)) 2 years’ custody or a fine;~~

~~(b) (summary) 12 months’ custody or a level 5 fine.».~~

70 Partnership Act 1909

For section 54 of the *Partnership Act 1909* substitute, —

«54 Offence of making false return

A person who makes, signs, sends or delivers any statement for the purpose of, or in connection with, registration, knowing the statement to be false, commits an offence.

~~Maximum penalty, —~~

~~(a) — (summary (High Bailiff) 2 years' custody or a fine;~~

~~(b) — (summary) 12 months' custody or a level 5 fine.~~

Maximum penalty (summary) 2 years' custody and a fine.».

71 Local Government Consolidation Act 1916

(1) The *Local Government Consolidation Act 1916* is amended as follows.

(2) Sections 357, 358, 359 366 and 367 are repealed .

72 Criminal Code (Informations) Act 1920

In section 3 of the *Criminal Code (Informations) Act 1920* for “offences, whether felonies or misdemeanours,” substitute «offences».

73 Petty Sessions and Summary Jurisdiction Act 1927

In section 56(5) of the *Petty Sessions and Summary Jurisdiction Act 1927* for “felony” substitute «an offence which may be tried on information».

74 Census Act 1929

In section 6(2) of the *Census Act 1929* for the words from “a misdemeanour” to the end of the section substitute, —

«an offence.

~~Maximum penalty, —~~

~~(a) — (summary (High Bailiff)) 2 years' custody or a fine;~~

~~(b) — summary 12 months' custody or a level 5 fine.~~

Maximum penalty (summary) 2 years' custody and a fine.».

75 Companies Act 1931

(1) The *Companies Act 1931* is amended as follows.

(2) For section 38C(1) substitute, —

- «(1) If an issued prospectus includes any untrue statement, any person who authorised the issue of the prospectus commits an offence unless he proves that —
- (a) the statement was immaterial; or
- (b) he had reasonable ground to believe and did believe, up to the time of the issue of the prospectus, that the statement was true.
- ~~Maximum penalty, —~~
- ~~(a) (summary (High Bailiff)) — 2 years' custody or a fine;~~
- ~~(b) (summary) — 3 months' custody or a fine of level 5.~~
- Maximum penalty (summary) 2 years' custody and a fine.».**
- (3) In section 61, —
- (a) omit "If";
- (b) after "of the company" (and before paragraph (1)) insert «commits an offence if that person»; and
- (c) omit the words following paragraph (3).
- (4) In section 255(1) —
- (a) omit "or" at the end of each of paragraphs (a) to (m) and paragraph (o);
- (b) paragraph (p) is repealed;
- (c) for the words from "he shall be guilty of a misdemeanour" to the end of the subsection substitute, —
- «he is guilty of an offence.
- Maximum penalty, —
- (a) for paragraphs (m), (n) and (o) —
- (i) (on information) — 5 years' custody;
- (ii) (summary) — 12 months' custody ~~or~~ **and** a fine of level 5;
- (b) ~~for any other paragraph, —~~
- ~~(i) (summary (High Bailiff)) — 2 years' custody or a fine;~~
- ~~(ii) (summary) — 12 months' custody or a fine of level 5.~~
- for any other paragraph, (summary) 2 years' custody and a fine.**
- (1A) It is a defence —
- (a) to a charge under paragraph (a), (b), (c), (d), (f), (n) or (o), for the accused to prove that he had no intent to defraud; and

- (b) to a charge under paragraph (h), (i) or (j), for the accused to prove that he had no intent to conceal the state of the company's affairs or to defeat the law.».
- (5) In subsection (2) for "a misdemeanour",
- (a) in the first and second places where it occurs, substitute «an offence»; and
- (b) in the third place where it occurs substitute «such an offence».
- (6) In section 256 for the words following "guilty" substitute, —
- «of an offence.
- ~~Maximum penalty, —~~
- (a) ~~(summary (High Bailiff)) 2 years' custody or a fine;~~
- (b) ~~(summary) 12 months' custody or a fine of level 5.~~
- Maximum penalty (summary) 2 years' custody and a fine.».**
- (7) In section 257 —
- (a) omit "If";
- (b) after "resolution for voluntary winding up" insert «commits an offence if he»;
- (c) for the words following paragraph (c) substitute, —
- «~~Maximum penalty, —~~
- (a) ~~(summary (High Bailiff)) 2 years' custody or a fine;~~
- (b) ~~(summary) 12 months' custody or a fine of level 5.~~
- Maximum penalty (summary) 2 years' custody and a fine.».**
- (8) In section 326 for the words following "guilty" substitute, —
- «of an offence.
- ~~Maximum penalty, —~~
- (a) ~~(summary (High Bailiff)) 2 years' custody or a fine;~~
- (b) ~~(summary) 12 months' custody or a fine of level 5.~~
- Maximum penalty (summary) 2 years' custody and a fine.».**
- (9) Section 329 is repealed.

76 Stamps Management Act 1936

The *Stamps Management Act 1936* is repealed.

77 Infanticide and Infant Life (Preservation) Act 1938

- (1) The *Infanticide and Infant Life (Preservation) Act 1938* is amended as follows.
- (2) In section 2(1) for "felony" substitute "an offence".

- (3) In section 3(1) —
 - (a) for the words from “guilty of” to “for life” substitute —
 - «an offence.
 - Maximum penalty (on information) custody for life.»; and
 - (b) omit the proviso.
- (4) After section 3(1) insert, —
 - « (1A) A person shall be liable to be convicted under subsection (1) if, but only if, it is proved that the act which caused the death of the child was not done in good faith for the purpose of preserving the life of the mother.».
- (5) In section 4 for “felony”, wherever occurring, substitute «offence».

78 Firearms Act 1947

In section 22 of the *Firearms Act 1947* for the words following “guilty of” substitute, —

- «an offence.
- Maximum penalty — (on information) 14 years’ custody.».

79 Bail Act 1952

- (1) The *Bail Act 1952* is amended as follows.
- (2) Renumber the existing section 3A as section 3B.
- (3) Immediately before the renumbered section 3B insert, —

«3A Offence of absconding by person released on bail

P1976/63/6 and drafting

- (1) If a person who has been released on bail fails without reasonable excuse to surrender to custody at the appointed time and place he or she commits an offence.
- (2) If a person who, —
 - (a) has been released on bail in criminal proceedings; and
 - (b) having reasonable cause for failing to do so, has failed to surrender to custody,
 fails to surrender to custody at the appointed place as soon after the appointed time as is reasonably practicable he or she commits an offence.
- (3) It is for the accused to prove that he or she had reasonable cause for his or her failure to surrender to custody.

- (4) A failure to give to a person granted bail in criminal proceedings a copy of the record of the decision does not constitute a reasonable excuse for that person's failure to surrender to custody.
- (5) An offence under subsection (1) or (2) is punishable either on summary conviction or as if it were a criminal contempt of court.
- (6) Where a court of summary jurisdiction convicts a person of an offence under subsection (1) or (2) the court may, if it thinks, —
- (a) that the circumstances of the offence are such that greater punishment should be inflicted for that offence than the court has power to inflict; or
 - (b) in a case where it sends that person for trial to a Court of General Gaol Delivery for another offence, that it would be appropriate for him or her to be dealt with for the offence under subsection (1) or (2) by a Court of General Gaol Delivery before which he is to be tried for the other offence,
- commit him or her in custody or on bail to that court for sentence.
- (7) A person who is convicted summarily of an offence under subsection (1) or (2) and 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, and a person who is so committed for sentence or is dealt with as for such a contempt shall be liable to custody for a term not exceeding 12 months or to a fine or to both.
- (8) In any proceedings for an offence under subsection (1) or (2) a document purporting —
- (a) to be a copy of the part of the prescribed record which relates to the time and place appointed for the person specified in the record to surrender to custody; and
 - (b) to be duly certified to be a true copy of that part of the record,
- constitutes evidence of the time and place appointed for that person to surrender to custody.
- (9) For the purposes of subsection (8) above, —
- (a) "the prescribed record" means the record of the decision of the court or constable granting bail subject to a duty to surrender to the custody of the court;
 - (b) the copy of the prescribed record is duly certified if it is certified —
 - (i) by the appropriate officer of the court;
 - (ii) by the constable who took the decision; or

- (iii) by a constable designated for the purpose by the officer in charge of the police station from which the person to whom the record relates was released;
 - (c) “the appropriate officer” of the court is, —
 - (i) in the case of a court of summary jurisdiction, the High Bailiff or a justice of the peace who is a member of the court;
 - (ii) in the case of a Court of General Gaol Delivery or the ~~Staff of Government~~ **Appeal** Division, the Deemster presiding over the court.
- (10) Section 75 of the *Summary Jurisdiction Act 1989* shall not apply in relation to an offence under subsection (1) or (2).
- (11) Where a person has been released on bail in criminal proceedings and that bail was granted by a constable, a court of summary jurisdiction shall not try that person for an offence under subsection (1) or (2) in relation to that bail (the “relevant offence”) unless either or both of subsections (12) and (13) below applies.
- (12) This subsection applies if a complaint is laid for the relevant offence within six months from the time of the commission of the relevant offence.
- (13) This subsection applies if a complaint is laid for the relevant offence no later than three months from the time of the occurrence of the first of the events mentioned in subsection (14) to occur after the commission of the relevant offence.
- (14) Those events are, —
 - (a) the person surrenders to custody at the appointed place;
 - (b) the person is arrested, or attends at a police station, in connection with the relevant offence or the offence for which he was granted bail;
 - (c) the person appears or is brought before a court in connection with the relevant offence or the offence for which he was granted bail.».

(3A) After renumbered section 3B, insert —

«3C Reconsideration of decisions granting bail

P1952/63/5B and drafting

- (1) This section applies where a court has granted bail in criminal proceedings in connection with an offence to which this section applies or in proceedings for such an offence.
- (2) The court may, on application by the prosecutor for the decision to be reconsidered —

- (a) vary the conditions of bail;
 - (b) impose conditions in respect of bail which has been granted unconditionally; or
 - (c) withhold bail.
- (3) The offences to which this section applies are offences triable on information and offences triable either way.
- (4) No application for the reconsideration of a decision under this section shall be made unless it is based on information which was not available to the court or constable when the decision was taken.
- (5) Whether or not the person to whom the application relates appears before it, the court shall take the decision in accordance with section 3B.
- (6) Where the decision of the court on a reconsideration under this section is to withhold bail from the person to whom it was originally granted the court shall—
 - (a) if that person is before the court, remand him or her in custody, and
 - (b) if that person is not before the court, order him or her to surrender himself or herself forthwith into the custody of the court.
- (7) Where a person surrenders himself or herself into the custody of the court in compliance with an order under subsection (5), the court shall remand him in custody.
- (8) A person who has been ordered to surrender to custody under subsection (5) above may be arrested without warrant by a constable if the person fails without reasonable cause to surrender to custody in accordance with the order.
- (9) A person arrested under subsection (7) above shall be brought as soon as practicable, and in any event within 24 hours after his or her arrest, before a justice of the peace and the justice shall remand him or her in custody.
- (10) In reckoning for the purposes of this subsection any period of 24 hours, no account shall be taken of Christmas Day, Good Friday or any Sunday.
- (11) Where the court, on a reconsideration under this section, refuses to withhold bail from a relevant person after hearing representations from the prosecutor in favour of withholding bail, then the court shall give reasons for refusing to withhold bail.
- (12) In subsection (9), “relevant person” means a person to whom section 3B is applicable.

- (13) A court which under subsection (11) is required to give reasons for its decision shall include a note of those reasons in any record of its decision and, if requested to do so by the prosecutor, shall cause the prosecutor to be given a copy of any such record as soon as practicable after the record is made.
- (14) Rules of Court shall include provision –
 - (a) requiring notice of an application under this section and of the grounds for it to be given to the person affected, including notice of the powers available to the court under it;
 - (b) for securing that any representations made by the person affected (whether in writing or orally) are considered by the court before making its decision.

3D Prosecution right of appeal against granting of bail

P1993/26/1 and drafting

- (1) Where a court of summary jurisdiction grants bail to a person who is charged with, or convicted of, an offence punishable by imprisonment, the prosecution may appeal to a Court of General Gaol Delivery against the granting of bail.
- (2) Where a Court of General Gaol Delivery grants bail to a person who is charged with, or convicted of, an offence punishable by imprisonment, the prosecution may appeal to the High Court against the granting of bail.
- (3) An appeal under subsection (2) may not be made where a Deemster has granted bail on an appeal under subsection (1).
- (4) Subsections (1) and (2) apply only where the prosecution is conducted –
 - (a) by or on behalf of the Attorney General; or
 - (b) by a person falling within such class or description of person as may be prescribed for the purposes of this section by order made by the Department.

Tynwald procedure – negative.
- (5) An appeal under subsection (1) or (2) may be made only if –
 - (a) the prosecution made representations that bail should not be granted; and
 - (b) the representations were made before bail was granted.
- (6) If the prosecution wishes to exercise the right of appeal set under subsection (1) or (2), the prosecution must –
 - (a) give oral notice of appeal to the court which granted bail at the conclusion of the proceedings in which bail has been

- granted and before the release from custody of the person concerned; and
- (b) serve written notice of appeal within two hours of the conclusion of such proceedings on the court which granted bail and on the person concerned.
- (7) Upon receipt from the prosecution of oral notice of appeal from its decision to grant bail the court which has granted bail must remand in custody the person concerned until the appeal is determined or otherwise disposed of.
- (8) Where the prosecution fails to serve one or both of the notices required by subsection (6)(b) within the period of two hours mentioned in that subsection, the appeal shall be deemed to have been disposed of.
- (9) The hearing of an appeal under subsection (1) or (2) against a decision of the court to grant bail shall be commenced within forty-eight hours, excluding weekends and any public holiday, from the date on which oral notice of appeal is given.
- (10) At the hearing of any appeal by the prosecution under this section, such appeal shall be by way of re-hearing, and the Deemster hearing any such appeal may remand the person concerned in custody or may grant bail subject to such conditions (if any) as the Deemster thinks fit.
- (11) In relation to a person under the age of 18 –
- (a) the references in subsections (1) and (2) to an offence punishable by imprisonment are to be read as references to an offence which would be so punishable in the case of an adult; and
- (b) the references in subsections (7) and (10) to remand in custody are to be read as remands to accommodation provided by the Department of Health and Social Care.

3E Limit on applications for bail

P1952/63/sch 1, Part IIA and drafting

- (1) If the court decides not to grant the defendant bail, it is the court's duty to consider, at each subsequent hearing while the defendant is a person to whom section 3C applies and remains in custody, whether the defendant ought to be granted bail.
- (2) At the first hearing after that at which the court decided not to grant the defendant bail, the defendant may support an application for bail with any argument as to fact or law that he or she desires (whether or not he or she has advanced that argument previously).

- (3) At subsequent hearings the court need not hear arguments as to fact or law which it has heard previously.»;
- (4) In section 5 for “any felony or misdemeanour” substitute «an offence».
- (5) Section 10 is repealed.

80 Forgery Act 1952

- (1) The *Forgery Act 1952* is amended as follows.
- (2) Subject to the following provisions of this paragraph, in sections 2, 3 and 5 —
 - (a) for “felony” substitute “an offence”;
 - (b) for “imprisonment” substitute “custody”.
- (3) Section 4 is repealed.
- (4) In section 5(4) (forgery of seals and dies) for paragraph (a) substitute, —
 - « (a) any die made, provided or used by the Commissioners of ~~Her Majesty's~~ His Majesty's Revenue and Customs or an officer of Revenue and Customs;».
- (5) In section 6 (uttering) in subsection (1) omit “of the like degree (whether felony or misdemeanour)”.
- (6) In section 8 (possession of forged documents etc) —
 - (a) for “felony” (wherever occurring) substitute «an offence»; and
 - (b) for “imprisonment” (wherever occurring) substitute “custody”.
- (7) In section 9 (making or possessing articles for forgery) —
 - (a) for “indictment” (wherever occurring) substitute “information”;
 - (b) for “felony” substitute “an offence”;
 - (c) for “imprisonment” substitute “custody”.
- (8) In section 10 —
 - (a) for the words preceding paragraph (a) substitute, —
 - «A person commits an offence if, without lawful authority or excuse, which it shall be for the accused to establish, he or she purchases, receives, or knowingly has in his or her possession, —»; and
 - (b) at the end insert, —
 - «~~Maximum penalty, —~~
 - (a) ~~(summary (High Bailiff)) — 2 years' custody or a fine;~~
 - (b) ~~(summary) — 12 months' custody or a level 5 fine.~~
 - Maximum penalty (summary) 2 years' custody and a fine.».
- (9) In section 11 (forgery of passport) —
 - (a) for the words preceding “forges” substitute, —

- «A person commits an offence if he or she»;
- (b) for “his knowledge” substitute «his or her knowledge»;
 - (c) for “himself” substitute «himself or herself»; and
 - (d) at the end insert, —
 - «~~Maximum penalty,~~
 - ~~(a) (summary (High Bailiff)) — 2 years’ custody or a fine;~~
 - ~~(b) (summary) — 12 months’ custody or a level 5 fine.~~
 - Maximum penalty (summary) 2 years’ custody and a fine.».
- (10) In section 13, —
- (a) in subsection (1) for “a felony or misdemeanour” substitute «an offence»;
 - (b) subsections (2) to (4) are repealed.
- (11) In section 15 for subsection (2)(c) and (d) substitute, —
- « (c) if it affects the public revenue, by order of, —
 - (i) the Lords Commissioners of Her Majesty’s Treasury;
 - (ii) the Commissioners of Revenue and Customs; or
 - (iii) the Treasury,
 as the case requires; or
 - (d) if it affects an assay office, by order of that office.».
- (12) In section 16, —
- (a) in subsection (1) omit “indictment or”;
 - (b) in subsection (2) for “in the indictment” substitute «in the information»;
 - (c) in subsection (3) for “co-partnership” wherever occurring substitute «partnership».
- (13) In section 18 insert, —
- « (3) Terms used in this Act which are defined in the Commissioners of Revenue and Customs Act 2005 (of Parliament) have the same meaning as in that Act, and references to those Commissioners and their officers include references to, —
 - (a) the Commissioners of Her Majesty’s Customs and Excise and their officers; and
 - (b) Board of Inland Revenue and its officers.».
- (14) Sections 7 and 19 are repealed.

81 Perjury Act 1952

- (1) The *Perjury Act 1952* is amended as follows.

(1A) In section 1(4) and 1(5) for “Her Majesty’s” wherever it occurs substitute «His Majesty’s».

(2) In section 1(1) for the words following “guilty” substitute, —

«of an offence of perjury.

Maximum penalty, —

(a) (on information) 7 years’ custody ~~or~~ and a fine;

(b) (summary) 12 months’ custody ~~or~~ and a fine of level 5.».

(3) In section 1A for the words following “guilty” substitute, —

«of an offence.

~~Maximum penalty, —~~

~~(a) (summary (High Bailiff)) — 2 years’ custody or a fine;~~

~~(b) (summary) — 12 months’ custody or a fine of level 5.~~

Maximum penalty (summary) 2 years’ custody and a fine.».

(4) In section 2 for the words following “guilty” substitute, —

«of an offence.

Maximum penalty, —

(a) (on information) — 7 years’ custody ~~or~~ and a fine;

(b) (summary) — 12 months’ custody ~~or~~ and a fine of level 5.».

(5) In section 3, —

(a) in subsection (1) for the words following “guilty” substitute, —

«of an offence.

Maximum penalty, —

(a) (on information) — 7 years’ custody ~~or~~ and a fine;

(b) (summary) — 12 months’ custody ~~or~~ and a fine of level 5.»;
and

(b) for subsections (2) and (3) substitute, —

« (2) Proceedings for an offence under this section may not be instituted more than 3 years after the commission of the offence.».

(6) In section 4, —

(a) in subsection (1) for the words following “guilty” substitute, —

«of an offence.

Maximum penalty, —

(a) (on information) — 7 years’ custody ~~or~~ and a fine;

(b) (summary) — 12 months’ custody ~~or~~ and a fine of level 5.»;

(b) for subsections (2) and (3) substitute, —

- « (2) Proceedings for an offence under this section may not be instituted more than 3 years after the commission of the offence.».
- (7) In section 5 for the words following “guilty” substitute, —
- «of an offence.
- Maximum penalty, —
- (a) (summary (High Bailiff)) — 2 years’ custody ~~or~~ and a fine;
- (b) (summary) — 12 months’ custody ~~or~~ and a fine of level 5.».
- (8) Section 6 is repealed.
- (9) In section 7(2)—
- (a) after “an offence against this Act” insert «(the principal offence); and
- (b) for the words following “guilty” substitute «of an offence and liable to be sentenced on conviction in the same manner as if he had been convicted of the principal offence.».
- (10) In section 9 for “indictment” wherever occurring (including the section ~~hearing~~ heading) substitute «information».
- (11) In section 11, —
- (a) in paragraph (a) for the words following “trial of” substitute «an information»; and
- (b) for “indictment” wherever it occurs, other than in paragraph (a) of the section substitute, «information».
- (12) In section 12(2) omit “The expression “indictment” includes “information” and the word “and” immediately preceding it.
- (13) In section 13, —
- (a) in subsection (1) omit “penal servitude, or”; and
- (b) in subsection (2) for “the *Children Act 1910 to 1949*” substitute «the *Children and Young Persons Act 2001*».
- (14) In section 15 omit the words from “and shall be construed as one” to the end.

82 Registration of Deeds Act 1961

Section 47 of the *Registration of Deeds Act 1961* is repealed.

83 CYPA 1966

- (1) CYPA 1966 is amended as follows.
- (2) In section 1, —
- ~~(a) in subsection (1) for the words following “derangement)” substitute—~~

- ~~«that person commits an offence.~~
~~Maximum penalty, —~~
~~(a) (summary (High Bailiff)) 2 years' custody or a fine;~~
~~(b) (summary) 12 months' custody or a fine of level 5.».~~
- (b) in subsection (5)(a) —
 (i) for “on indictment” substitute «on information»; and
 (ii) for “penal servitude” substitute «custody»
- ~~(3) In section 3(1) for the words following “frequent a brothel” substitute,~~
~~«that person commits an offence.~~
~~Maximum penalty — (summary) 6 months' custody or ~~and~~ a fine of level 4.».~~
- (4) In section 4(1) for the words following “he shall” substitute, —
 «be guilty of an offence.
 Maximum penalty — (summary) 3 months' custody ~~or~~ ~~and~~ a fine of level 3.».
- (5) In section 6C for subsection (3) substitute, —
 « (3) A person guilty of an offence under this section is liable on summary conviction to 6 months' custody, a fine not exceeding level 5 or both.».
- (6) Section 8 is repealed.
- (7) In the proviso to section 9, for the words following “proceeded against” to the end substitute «for any offence triable on information (whether before a Court of General Gaol Delivery or any other court).».
- (8) In section 10, —
 (a) in subsection (3), for “Cinematograph Act 1925” substitute «*Cinematograph Act 1977*»; and
 (b) for subsection (5) substitute, —
 « (5) Proceedings under this section may be instituted only by, or with the consent of, the Attorney General.».
- (9) In section 12(4), for “information, summons or indictment” substitute «complaint, summons or information».
- (10) In section 107(2) and (3) for “or indictment” substitute «, information or summons”»
- (11) In section 118(1) in the definition of “young person” for “seventeen years” substitute «eighteen years».

84 Consumer Protection (Trade Descriptions) Act 1970

In section 18 of the *Consumer Protection (Trade Descriptions) Act 1970* for the words “shall be liable” to the end of the section **shall be liable on summary conviction to 2 years custody, a fine or both.** ~~substitute,—~~

~~«shall be liable on summary conviction,—~~

~~(a) — in proceedings before the High Bailiff, to 2 years’ custody, a fine or both; and~~

~~(b) — in any other case, to a fine not exceeding level 5.».~~

85 Unsolicited Goods and Services (Isle of Man) Act 1974

In section 3 of the *Unsolicited Goods and Services (Isle of Man) Act 1974* —

(a) at the end of subsection (2) insert —

~~«Maximum penalty —~~

~~(a) — (summary (High Bailiff)) — a fine;~~

~~(b) — (summary) — a fine of level 5.~~

Maximum penalty – a fine.»; and

(b) omit subsection (2A).

86 Estate Agents Act 1975

(1) The *Estate Agents Act 1975* is amended as follows.

(2) In section 2(3) for the words following “offence” substitute, —

~~«Maximum penalty —~~

~~(a) — (summary (High Bailiff)) — 2 years’ custody or a fine;~~

~~(b) — (summary) — a level 5 fine.~~

Maximum penalty (summary) 2 years’ custody and a fine.».

(3) In section 10, —

(a) for subsections (2) and (3) substitute, —

«(2) A person commits an offence if he carries on business as an estate agent without there being in force, in relation to the business, a guarantee, bond or other security given in favour of the OFT, in a form approved by the Treasury after consultation with the Attorney General, which provides for the payment to the OFT, up to the required limit, of the amount of any loss caused by such fraud or dishonesty as is mentioned in subsection (1).

~~Maximum penalty —~~

~~(a) — (summary (High Bailiff)) — a fine;~~

~~(b) — (summary) — a level 5 fine.~~

Maximum penalty (summary) — a fine.».

(4) ~~In section 11 —~~

(a) ~~after subsection (3) insert, —~~

~~«Maximum penalty for an offence under this section, —~~

~~(a) — (summary (High Bailiff)) — a fine;~~

~~(b) — (summary) — a level 5 fine.»;~~

~~(b) — omit subsection (4).~~

(4) For section 11(4) substitute —

«(4) A person who contravenes this section commits an offence.

Maximum penalty (summary) — a fine.».

(5) In section 18(1) —

(a) omit the definition of “Board”; and

(b) after the definition of “notice” insert —

« “the OFT” means the Isle of Man Office of Fair Trading;».

(6) In consequence of the amendments made by subparagraph (5), for “the Board” wherever occurring in the Act substitute «the OFT».

87 Price Marking Act 1976

(1) The *Price Marking Act 1976* is amended as follows.

(2) In section 1(1) and (3) for “ ‘the Board’ ” (wherever occurring) substitute «“OFT”».

(3) In consequence of the amendment made by subparagraph (2) for “the Board”, wherever occurring in the Act, substitute «the OFT».

(4) In paragraph 1(1) of the Schedule for the words from “liable” to the end of the subparagraph ~~liable, on summary conviction to a fine~~ substitute, —

~~«liable, on summary conviction, —~~

~~(a) — in proceedings before the High Bailiff, to a fine; and~~

~~(b) — in any other case, to a fine not exceeding level 5.».~~

88 Coinage Offences Act 1980

(1) The *Coinage Offences Act 1980* is amended as follows.

(2) For section 1(1) substitute, —

«(1) A person commits an offence if he or she falsely makes or counterfeits any coin resembling a current coin.

Maximum penalty, —

(a) (on information) 10 years’ custody ~~or~~ and a fine;

(b) (summary) 12 months’ custody ~~or~~ and a level 5 fine.».

- (3) In section 2, —
- (a) for “Every person who” substitutes «A person commits an offence if he or she, —»;
 - (b) in paragraph (a) —
 - (i) for “platinum, gold, silver or cupro-nickel” substitute —
«platinum, gold, silver or any other metal of which any current coin is made»;
 - (ii) in subparagraph (i) omit “platinum, gold, silver or cupro-nickel”;
 - (iii) omit subparagraph (ii);
 - (iv) for subparagraph (iii) substitute, —
« (iii) any piece of metal or mixture of metals, being of a fit size and figure to be coined, with the intention that it shall be coined into counterfeit coin resembling any current coin;»;
 - (c) in paragraph (b)—
 - (i) omit “silver or cupro-nickel”;
 - (ii) for the words following “pass for” substitute «any other current coin»;
 - (d) for paragraph (c) substitute, —
« (c) files or in any manner alters any current coin with intent to make it resemble or pass for any other current coin.»;
 - (da) omit “shall be guilty of an offence and shall be liable, on conviction on information, to imprisonment for life.”.
 - (e) at the end of the section insert, —
«Maximum penalty, —
(a) (on information) 10 years’ custody ~~or~~ and a fine;
(b) (summary) 12 months’ custody ~~or~~ and a fine of level 5.».
- (4) For section 3 substitute, —

«3 **Impairing current coin and unlawful possession of filings etc**

- (1) A person commits an offence if he or she impairs, diminishes or lightens any current coin with intent that the coin so impaired, diminished or lightened may pass for any other current coin.
Maximum penalty, —
 - (a) (on information) 10 years’ custody ~~or~~ and a fine;
 - (b) (summary) 12 months’ custody ~~or~~ and a fine of level 5.
- (2) A person commits an offence if he or she has in his or her possession any filing or clipping, or any bullion or metal from

- which current coins are made, whether in the form of dust, solution or otherwise, which has been produced or obtained by impairing, diminishing or lightening any current coin, knowing that it has been so produced or obtained.
- Maximum penalty, —
- (a) (on information) 7 years' custody or a fine;
- (b) (summary) 12 months' custody or a level 5 fine.».
- (5) In section 4, —
- (a) in subsection (1) for the words "Every person who" substitute «A person commits an offence if he or she»;
- (b) for the words following "lightened" substitute, —
- «~~Maximum penalty, —~~
- (a) ~~(summary (High Bailiff)) 12 months' custody or a fine;~~
- (b) ~~(summary) 3 months' custody or a level 3 fine.~~
- Maximum penalty (summary) 12 months' custody and a fine.»;**
- (c) for subsection (3) substitute —
- «(3) A person commits an offence if he or she tenders, utters or passes any coin which has been defaced as mentioned in subsection (1) ~~shall be guilty of an offence.~~
- Maximum penalty (summary) – level 1 fine.
- (4) Proceedings for an offence under subsection (3) may be instituted only with the consent of the Attorney General.».
- (6) In section 5, —
- (a) in subsection (1) —
- (i) for the words "Every person who" substitute «A person commits an offence if he or she»;
- (ii) for the words from "false or counterfeit shall" to the end substitute —
- «false or counterfeit.
- Maximum penalty, —
- (a) (on information) — 5 years' custody ~~or~~ **and** a fine;
- (b) summary — 12 months' custody ~~or~~ **and** a level 5 fine.».
- (b) subsections (2) to (6) are repealed.
- (7) In section 6, —
- (a) in subsection (1) —
- (i) for "Every person who" substitute «A person commits an offence if he or she»;
- (ii) for the words following "intended to import" substitute, —

- «Maximum penalty, —
- (a) (on information) — 10 years' custody ~~or~~ **and** a fine;
- (b) (summary) — 12 months' custody ~~or~~ **and** a level 5 fine.»;
- (b) in subsection (2) omit "platinum, gold, silver or cupro-nickel".
- (8) In section 7(1) —
- (a) for "Every person who" substitute «A person commits an offence if he or she»;
- (b) in paragraph (a) omit "platinum, gold, silver or cupro-nickel"; and
- (c) for the words after paragraph (b) substitute, —
- «Maximum penalty, —
- (a) (on information) — 10 years' custody ~~or~~ **and** a fine;
- (b) (summary) — 12 months' custody ~~or~~ **and** a level 5 fine.».
- (9) In section 8, —
- (a) in the section heading for "platinum, gold, silver or cupro-nickel coin" substitute «current coin»;
- (b) in the opening words —
- (i) for "Every person who" substitute «A person commits an offence if he or she»;
- (ii) for "his possession" substitute «his or her possession»;
- (c) in paragraph (a) omit "platinum, gold, silver or cupro-nickel"
- (d) for the words following paragraph (c) substitute, —
- «Maximum penalty (summary) — 12 months' custody ~~or~~ **and** a level 5 fine.».
- (10) In section 9, —
- (a) in subsection (1) —
- (i) for "Every person who" substitute «A person commits an offence if he or she»;
- (ii) for "his possession" substitute «his or her possession»;
- (iii) omit "platinum, gold, silver or cupro-nickel";
- (iv) for the words following "or either of those sides" substitute, —
- «Maximum penalty, —
- (a) (on information) — 10 years' custody ~~or~~ **and** a fine;
- (b) (summary) — 12 months' custody ~~or~~ **and** a level 5 fine.».
- (b) in subsection (2) —
- (i) for "Every person who" substitute «A person commits an offence if he or she»;

- (ii) for “his possession” substitute «his or her possession»;
 - (iii) in paragraphs (a) and (b) for “platinum, gold, silver or cupro-nickel coin” substitute «coin»;
 - (iv) in paragraph (b) for “platinum, gold, silver, cupro-nickel or other metal” substitute «any metal»;
 - (v) for the words following paragraph (b) substitute, —
 - «Maximum penalty, —
 - (a) (on information) — 10 years’ custody ~~or~~ and a fine;
 - (b) (summary) — 12 months’ custody ~~or~~ and a level 5 fine.».
 - (c) subsection (3) is repealed.
- (11) In section 10 —
- (a) in subsection (2) —
 - (i) in paragraph (c) for the words from “clippings, or any platinum” to “solution or otherwise” substitute, —
 - «clippings, or any metal or alloy of which any current coin is made, whether in the form of bullion, dust, solution or otherwise,»;
 - (ii) in the words following paragraph (c) for “he” substitute «he or she»;
 - (b) in subsection (3) —
 - (i) for “his possession” substitute «his or her possession»;
 - (ii) for “his hand” substitute «his or her hand»;
 - (c) in subsection (4) for “he” substitute «he or she»;
 - (d) in subsection (5) for the words following “forthwith” substitute «to the Treasury or a person authorised by the Treasury to receive it».
- (12) In sections 11 and 12 for “him” (wherever occurring) substitute «him or her».
- (13) In section 12(1) omit “platinum, gold, silver or cupro-nickel”.
- (14) In section 13 —
- (a) omit paragraph (a) (the definition of “bronze”);
 - (aa) in paragraph (b), for “Her Majesty’s” wherever it occurs substitute «His Majesty’s»;
 - (b) in paragraph (d) omit “resembling a current platinum, gold, silver or cupro-nickel coin”;
 - (c) in paragraph (f) after “the *Gold Coinage Act 1965*” insert «or the *Currency Act 1992*».

89 Criminal Damage Act 1981

- (1) Section 4 of the *Criminal Damage Act 1981* is amended as follows.
- (2) In subsection (1) for “imprisonment” substitute “custody”.
- (3) For subsection (2) substitute, —

« (2)	A person guilty of any other offence under this Act is liable, —
(a)	on conviction on information, to custody for a term not exceeding 10 years or and a fine; or
(b)	on summary conviction, to 12 months’ custody or and a fine not exceeding level 5.».

90 Criminal Law Act 1981

- (1) The *Criminal Law Act 1981* is amended as follows.
- (2) In section 7, —
 - (a) at the end of subsection (1) insert —

«Maximum penalty —	
(a)	(on information) — 10 years’ custody;
(b)	(summary) — 12 months’ custody or and a fine of level 5.»;
 - (b) omit subsection (3).
- (3) In section 8(1) for the words following “loss or injury” substitute, —

«commits an offence.	
Maximum penalty, —	
(a)	(on information) 2 years’ custody;
(b)	summary 12 months’ custody or and a fine of level 5.».
- (4) **Section 20 is repealed.**
- (5) **In section 31 (saving), for “Her Majesty’s” substitute «His Majesty’s».**
- (6) **In schedule 6 (compensation orders), in subparagraph (1), for “in addition to dealing with him in any other way” substitute «whether or not in addition to dealing with him in any other way».**

91 Theft Act 1981

After section 29 of the *Theft Act 1981* insert —

«29A	Summary trial of offences under this Act
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	An offence under this Act which is triable on information may be tried summarily, and where it is so tried the maximum penalty (summary) is 12 months’ custody or and a fine of level 5, but subject to, —
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- (a) section 1A of the *Summary Jurisdiction Act 1989* (powers of the High Bailiff to impose higher penalties where they are available to a Court of General Gaol Delivery); and
- (b) section 17 of that Act (power to commit the offender to a Court of General Gaol Delivery for sentence).».

92 Non-resident Traders Act 1983

- (1) Schedule 1A to the *Non-Resident Traders Act 1983* is amended as follows.
- (2) In paragraph 1(b) for “him” substitute «him or her»
- (3) In paragraph 2(3) for “imprisonment” substitute “«custody».
- (4) In paragraph 3, —
 - (a) in subparagraph (1) for “his credentials” substitute «his or her credentials»;
 - (b) in subparagraph (3) for “he may” substitute «the officer may»;
 - (c) in subparagraph (4) for “he has” substitute «the officer has».
- (5) In paragraph 4 for “his hand” substitute «his or her hand».
- (6) In paragraph 5, —
 - (a) in subparagraph (1) for “take with him such persons as appear to him to be necessary.” substitute «be accompanied by such persons as appear to the officer to be necessary.»;
 - (b) in subparagraph (2) for “as he found them.” substitute «as the person so authorised found them».
- (7) In paragraph 6, —
 - (a) in subparagraph (1)—
 - (i) in head (b) for “him” substitute «that person»;
 - (ii) in head (c) for “him” substitute «that person»; and
 - (iii) for the words following head (c) substitute, —

«is guilty of an offence.

Maximum penalty (summary) – level 5 fine.»;
 - (b) in subparagraph (2)—
 - (i) in the opening words for “him” substitute «him or her»;
 - (ii) in paragraph (a) for “he” substitute «he or she»;
 - (iii) for the words following paragraph (b) substitute —

«is guilty of an offence.

~~Maximum penalty—~~

~~(a) (summary (High Bailiff)) a fine;~~

~~(b) (summary) a level 5 fine.~~

Maximum penalty (summary)—a fine.».

93 Weights and Measures Act 1989

In section 61(3) of the *Weights and Measures Act 1989* for the words “shall be liable” to the end of the subsection **substitute « shall be liable, on summary conviction to 2 years’ custody and a fine.».** ~~substitute,—~~

~~«shall be liable, on summary conviction,—~~

~~(a) — in proceedings before the High Bailiff, to 2 years’ custody or a fine; and~~

~~(b) — in any other case, to a fine not exceeding level 5.».~~

94 Consumer Protection Act 1991

(1) The *Consumer Protection Act 1991* is amended as follows.

(2) In section 29, —

(a) at the end of subsection (2) insert, —

~~«Maximum penalty,—~~

~~(a) — (summary (High Bailiff)) — a fine;~~

~~(b) — (summary) — a level 5 fine.~~

Maximum penalty (summary)—a fine.»; and

(b) omit subsection (3).

(3) For section 46A substitute, —

«46A Offence to enter into certain contracts

A person commits an offence if, as a trader, he or she enters into a relevant contract.

~~Maximum penalty,—~~

~~(a) — (summary (High Bailiff)) 2 years’ custody or a fine;~~

~~(b) — (summary) 12 months’ custody or a fine of twice level 5.~~

Maximum penalty (summary)—2 years’ custody and a fine.».

(4) In section 47A, —

(a) at the end of subsection (1) insert, —

~~«Maximum penalty,—~~

~~(a) — (summary (High Bailiff)) 2 years’ custody or a fine;~~

~~(b) — (summary) 12 months’ custody or a fine of twice level 5.~~

Maximum penalty (summary) 2 years’ custody and a fine.»; and

(b) omit subsection (3).

95 — High Court Act 1991

~~Section 27A(3) of the *High Court Act 1991* (temporary effect of practice directions) is repealed.~~

95 High Court Act 1991

- (1) The *High Court Act 1991* is amended as follows –
- (2) In section 3A, (First Deemster, Second Deemster and Judge of Appeal), in subsections (1) and (2), for “Her Majesty” substitute «His Majesty».
- (3) in section 16A (small claims adjudication – representation), in subsection (2), for “who is an officer” substitute «who is a director, officer, employee or
- (4) In section 18 (civil and criminal jurisdiction of Appeal Division), in subsection (6), for “Her Majesty” substitute «His Majesty».
- (4) In section 24 (Appeals to Her Majesty in Council), in the heading and in subsection (1), for “Her Majesty” substitute «His Majesty».
- (6) In section 25 (power to make rules of court) –
 - (a) at the end of subsection (1), insert –

«Tynwald procedure – laying only.»;
 - (b) after subsection (4), insert –

«(4) Until the first rules of court are made under this section to regulate the procedure of Courts of General Gaol Delivery or the procedure in any legal proceedings in relation to a matter, the procedure shall be such as the Deemster shall determine in relation to the matter before him or her.».
- (7) After section 25 insert –

«25A Electronic communications in proceedings – rules of court

- (1) Rules under section 25 may make provision –
 - (a) authorising or requiring the use of electronic communications for the purposes of giving specified information in the course of, or otherwise in connection with, proceedings;
 - (b) specifying technical standards to be met in relation to the method and manner of giving such information;
 - (c) specifying the effect of giving (or not giving) information in accordance with standards under paragraph (b).
- (2) Rules may also make provision as to how a requirement for a signature in or in connection with the giving of such information is to be met.

- (3) Subsections (5) and (6) of section 4 of the *Electronic Transactions Act 2000* (which give an extended meaning to the expression “give information”) apply for the purpose of this section as they apply for the purposes of that section.».
- (8) In section 26 (Provisions supplementary to ss 34 and 35), in subsection (5), for “Her Majesty” substitute «His Majesty».
- (9) Section 27A(3) (temporary effect of practice directions) is repealed.
- (10) After section 33A insert –

33B Attendance of witnesses

[P1980/43/97]

- (1) Where a judge of the High Court is satisfied –
 - (a) that any person is likely to be able to give material evidence, or produce any document or thing likely to be material evidence, in any proceedings in the High Court; and
 - (b) that the person will not voluntarily attend as a witness or produce the document or thing,the judge of the High Court shall give a direction to that person requiring that person to attend before the court at the time and place appointed in the direction to give evidence or to produce the document or thing.
- (2) If a judge of the High Court is satisfied by evidence on oath of the matters mentioned in subsection (1), and also that it is probable that a direction under that subsection would not procure the attendance of the person in question, the justice may instead of issuing a direction issue a warrant to arrest that person and bring him before such a court at a time or place specified in the warrant.
- (3) On the failure of any person to attend before the High Court in answer to a direction under this section, if –
 - (a) the court is satisfied by evidence on oath that the person is likely to be able to give material evidence or produce any document or thing likely to be material evidence in the proceedings; and
 - (b) it is proved on oath, or in such other manner as may be prescribed, that the person has been duly served with the direction, and that a reasonable sum has been paid or tendered to the person for costs and expenses; and
 - (c) it appears to the court that there is no just excuse for the failure,the court may issue a warrant to arrest the person and bring him before the court at a time and place specified in the warrant.

- (4) Without prejudice to subsection (3), where —
- (a) a person is summoned under this section to attend before the High Court, and
 - (b) a reasonable sum is paid or tendered to him for costs and expenses, and
 - (c) the person fails without reasonable excuse to attend in answer to the direction shall be guilty of an offence and liable on summary conviction to a fine.
- (5) If any person attending or brought before the High Court refuses without just excuse to be sworn or give evidence, or to produce any document or thing, the court may commit the person to custody until the expiration of such period not exceeding 7 days as may be specified in the warrant or until the person sooner gives evidence or produces the document or thing.
- (6) The powers conferred by subsection (5) may be exercised from time to time after adjournment of the proceedings, but so that the total period of imprisonment shall not exceed 28 days.
- (7) The High Court may bind any witness by recognizance to appear at the trial of the accused and give evidence against the accused and if a witness refuses to be bound the court may by warrant commit the witness to prison until the trial unless in the meantime the witness enters into a recognizance.
- (8) Where a witness has been committed under subsection (7) and afterwards the person accused is discharged, the court shall order the witness also to be discharged.
- (11) In section 57 (fees to be taken in the High Court) —
- (a) number the existing text as subsection (1);
 - (b) after subsection (1) insert —
- «(2) An order under this section may, in particular, contain provision as to —
- (a) scales or rates of fees;
 - (b) exemptions from or reductions in fees;
 - (c) remission of fees in whole or in part.
- (3) When including any provision in an order under this section, the Treasury must have regard to the principle that access to the courts must not be denied.
- (4) The Treasury may not under this section prescribe fees which it or another authority has power to prescribe apart from this section.».
- (12) In schedule 1 (admiralty), in paragraph 20, for “Her Majesty” substitute «His Majesty».

- (13) In schedule 4 (transitional provisions and savings), in paragraph 20, after “Her Majesty” substitute «His Majesty».

96 Moneylenders Act 1991

- (1) The *Moneylenders Act 1991* is amended as follows.
- (2) In section 1, —
- (a) at the end of subsection (4) insert, —
- ~~«Maximum penalty —~~
~~(a) — (summary (High Bailiff)) — a fine;~~
~~(b) — (summary) — a fine of level 5.~~
Maximum penalty (summary) — a fine.»; and
- (b) omit subsection (4A).
- (3) In section 16, —
- (a) at the end of subsection (1) insert, —
- ~~«Maximum penalty, —~~
~~(a) — (summary (High Bailiff)) 2 years’ custody or a fine;~~
~~(b) — (summary) 12 months’ custody or a fine of twice level 5.~~
Maximum penalty (summary) 2 years’ custody and a fine.»; and
- (b) omit subsection (3).

97 Post Office Act 1993

- (1) The *Post Office Act 1993* is amended as follows.
- (2) In section 14(2) for the words following “an offence” substitute —
- «Maximum penalty — (summary) 12 months’ custody ~~or~~ and a level 5 fine.»**.
- (3) In section 23(1) and 24(2) for “imprisonment” substitute «custody».
- (4) In section 33, —
- (a) for “If any person, —” substitute «A person commits an offence if he —»; and
- (b) for the words following paragraph (b) substitute, —
- ~~«Maximum penalty, —~~
~~(a) (on information) — 5 years’ custody ~~or~~ and a fine;~~
~~(b) (summary) — 12 months’ custody ~~or~~ and a level 5 fine.»~~.
- (5) In section 34, —
- (a) for “If any person” substitute «A person commits an offence if he —»; and
- (b) for the words following paragraph (b) substitute, —

- «~~Maximum penalty,~~—
 (a) ~~(summary (High Bailiff)) — 2 years' custody or a fine;~~
 (b) ~~(summary) — 12 months' custody or a level 5 fine.~~
 Maximum penalty (summary) 2 years' custody and a fine.».
- (6) In section 35, —
 (a) for “If any person” substitute «A person commits an offence if he —»; and
 (b) for the words following paragraph (b) substitute, —
 «Maximum penalty (summary) 6 months' custody ~~or~~ and a level 5 fine.».
- (7) In section 36 for the words following “by post” substitute, —
 «the person is guilty of an offence.
 Maximum penalty, —
 (a) (on information) — 7 years' custody ~~or~~ and a fine;
 (b) (summary) — 12 months' custody ~~or~~ and level 5 fine.».
- (8) In section 37(1) —
 (a) for the words preceding “contrary to his duty” substitute, —
 «A person engaged in the business of the Post Office commits an offence if,»
 (b) for the words following paragraph (b) substitute, —
 «~~Maximum penalty,~~—
 (a) ~~(summary (High Bailiff)) — 2 years' custody or a fine;~~
 (b) ~~(summary) 12 months' custody or a level 5 fine.~~
 Maximum penalty (summary) 2 years' custody and a fine.».
- (9) In section 39 for the words following paragraph (b) substitute —
 «the person is guilty of an offence.
 Maximum penalty (summary) — 12 months' custody or a level 5 fine.».
- (10) In section 56(6) for the words following “authorised to enter on the land” substitute, —
 «the person is guilty of an offence.
~~Maximum penalty,~~—
 (a) ~~(summary (High Bailiff)) — 2 years' custody or a fine;~~
 (b) ~~(summary) — 12 months' custody or a level 5 fine.~~
 Maximum penalty (summary) 2 years' custody and a fine.».

98 **Custody Act 1995**

(1) The *Custody Act 1995* is amended as follows.

(2) In section 4 —

(a) in subsection (1) for the words following “offence” substitute, —

«~~Maximum penalty, —~~

(a) ~~(on information) — 5 years’ custody or a fine;~~

(b) ~~(summary) — 12 months’ custody or a level 5 fine.~~

Maximum penalty (summary) 2 years’ custody and a fine.»;

(b) at the end of subsection (2) insert, —

«~~Maximum penalty, —~~

(a) ~~(summary (High Bailiff)) — 2 years’ custody or a fine;~~

(b) ~~(summary) — 12 months’ custody or a level 5 fine.~~

Maximum penalty (summary) 2 years’ custody and a fine.»; and

(c) omit subsection (3).

(2A) For section 19A, substitute —

19A Testing prisoners for alcohol, drugs, psychoactive substances and other substances

(1) An officer of an institution may require any person detained in the institution to provide one or more samples for the purpose of ascertaining whether the detainee has in their body any —

(a) alcohol;

(b) tobacco;

(c) controlled drug;

(d) pharmacy medicine;

(e) prescription only medicine;

(f) psychoactive substance; or

(g) specified substance.

(2) The power conferred by subsection (1) includes power to require a detainee to provide a non-intimate sample of any description.

(3) The power conferred by subsection (1) must be exercised in accordance with custody rules.

(4) The Department may use any detainees’ samples to test, on an anonymised basis, for the prevalence of the following substances in an institution —

(a) alcohol;

(b) tobacco;

- (c) controlled drugs;
- (d) medicinal products;
- (e) psychoactive substances; or
- (f) specified substances.

(5) In this section –

“controlled drug” means any drug which is a controlled drug for the purposes of the *Misuse of Drugs Act 1976*;

“non-intimate sample” has the same meaning as in Part V of the *Police Powers and Procedures Act 1998*;

“medicinal product” has the meaning given in the *Medicines Act 2003*;

“pharmacy medicine” has the meaning given in regulation 8 of the Human Medicines Regulations 2012 (of Parliament);

“prescription only medicine” has the meaning given in regulation 8 of the Human Medicines Regulations 2012 (of Parliament);

“prisoners’ samples” means any sample –

- (a) provided under subsection (1) or (2), or
- (b) provided by prisoners voluntarily;

“psychoactive substance” has the same meaning as in the Psychoactive Substances Act 2016 (of Parliament);

“specified substance” means any substance or product specified in prison rules for the purposes of this section.

(6) The Department may, by regulations, make such amendments to this section as the Department considers appropriate in consequence of the amendment or revocation of any Manx enactment (whenever made) which relates to human medicines.

(2B) In section 21 (temporary release), after subsection (1), insert –

«(1A) Without prejudice to the generality subsection (1), the rules may provide that a detainee who is temporarily released may be subject to a condition for securing the electronic monitoring of the released person’s whereabouts during such periods as may be specified in the conditions; requiring the released person to remain, for periods specified in the conditions, at a place so specified.»;

(2C) in section 22 (temporary release on grounds of ill health), after subsection (1), insert –

«(1A) Without prejudice to the generality of subsection (1), the Department may include a direction for securing the electronic monitoring of the released person’s whereabouts during such periods as may be specified in the conditions; requiring the

- released person to remain, for periods specified in the conditions, at a place so specified.»;
- (2D) in section 23A (release in case of overcrowding), in subsection (3), after subsection (1), insert —
- «(1A) Without prejudice to the generality of subsection (1), the Department may include a direction for securing the electronic monitoring of the released person's whereabouts during such periods as may be specified in the conditions; requiring the released person to remain, for periods specified in the conditions, at a place so specified.».
- (3) In Schedule 1A, —
- (a) in paragraph 3, —
- (i) at the end of subparagraph (1) insert, —
- «~~Maximum penalty, —~~
- (a) ~~(summary (High Bailiff)) 2 years' custody or a fine;~~
- (b) ~~(summary) 12 months' custody or a level 5 fine.~~
- Maximum penalty (summary) 2 years' custody and a fine.»; and
- (ii) omit subparagraph (3);
- (b) in paragraph 6, for subparagraphs (5)(a) and (b) substitute, —
- «~~Maximum penalty, —~~
- (a) ~~(summary (High Bailiff)) 2 years' custody or a fine;~~
- (b) ~~(summary) 12 months' custody or a level 5 fine.~~
- Maximum penalty (summary) 2 years' custody and a fine.».
- (4) In Schedule 2 in paragraph 10A(3), for “proposed” substitute «proposes».
- (5) For “Her Majesty's” wherever it appears substitute «His Majesty's».

99 Fair Trading Act 1996

- (1) The *Fair Trading Act 1996* is amended as follows.
- (2) In section 7D(1) for the words from “is liable” to the end of the subsection substitute, —
- «is liable on summary conviction, —
- (a) ~~in proceedings before the High Bailiff, to 2 years' custody or a fine; and~~
- (b) ~~in any other case, to 12 months' custody or a level 5 fine.~~
- conviction to 2 years' custody and a fine.».
- (3) In section 21 —

- (a) omit subsection (3); and
- (b) at the end of the section insert, —
 - «~~Maximum penalty,~~—
 - (a) ~~— (summary (High Bailiff)) — 2 years’ custody or a fine;~~
 - (b) ~~— (summary) — 12 months’ custody or a level 5 fine.~~
 - Maximum penalty (summary) 2 years’ custody and a fine.».**
- (4) For section 25(5) substitute, —
 - «~~Maximum penalty,~~—
 - (a) ~~— (summary (High Bailiff)) — 2 years’ custody or a fine;~~
 - (b) ~~— (summary) — 12 months’ custody or a level 5 fine.~~
 - Maximum penalty (summary) 2 years’ custody and a fine.».**
- (5) In Schedule 3, paragraph 6(4) for the words from “an offence” to the end of the subparagraph substitute, —
 - «an offence.
 - ~~Maximum penalty,~~—
 - (a) ~~— (summary (High Bailiff)) to 2 years’ custody or a fine;~~
 - (b) ~~— (summary) a level 5 fine.~~
 - Maximum penalty (summary) 2 years’ custody and a fine.».**

100 Timeshare Act 1996

- (1) The *Timeshare Act 1996* is amended as follows.
- (2) In section 2, —
 - (a) at the end of subsection (1) insert, —
 - «~~Maximum penalty,~~—
 - (a) ~~— (summary (High Bailiff)) — a fine;~~
 - (b) ~~— (summary) — a level 5 fine.~~
 - Maximum penalty (summary) 2 years’ custody and a fine.»;** and
 - (b) omit subsection (3).
- (3) In section 5(5) for the words following “an offence” substitute, —
 - «~~Maximum penalty,~~—
 - (a) ~~— (summary (High Bailiff)) — a fine;~~
 - (b) ~~— (summary) — a level 5 fine.~~
 - Maximum penalty for a Class A specimen — (summary) — 2 years’ custody or a fine;**
 - Maximum penalty for a Class B specimen — (summary) 6 months’ custody or a level 5 fine.».**

- (4) For section 7(3) substitute, —

«~~Maximum penalty, —~~

(a) ~~(summary (High Bailiff)) — a fine;~~

(b) ~~(summary) — a level 5 fine.~~

Maximum penalty (summary) 2 years' custody and a fine.».

- (5) In section 12(7)(b) for the words following “offences” substitute, —

«~~Maximum penalty for offences under regulations, —~~

(a) ~~(summary (High Bailiff)) — 2 years' custody or a fine;~~

(b) ~~(summary) — 12 months' custody or a level 5 fine.~~

Maximum penalty for an offence under subsection (1) or (2) —
(summary) 2 years' custody and a fine.».

101 Children and Young Persons Act 2001

- (1) The *Children and Young Persons Act 2001* is amended as follows.

~~(2) Section 81(3) is repealed.~~

- (2) in section 80 (identification of child or young person in media), after subsection (4) insert —

«(4A) In this section references to publication of a report of matters falling within subsection (1) —

(a) include references to inclusion of those matters in any speech, writing, relevant programme or other communication in whatever form which is addressed to the public at large or any section of the public, and for this purpose the following are to be treated as so addressed —

(i) every relevant programme; and

(ii) every electronic communication, including any comments made by a member of the public, on a website or other social medium and which is capable of being read by a member of the public without being specifically addressed to him or her; but

(b) do not include references to inclusion of those matters in a document prepared for use in particular legal proceedings.».

- (3) Section 81(3) is repealed.

102 Rehabilitation of Offenders Act 2001

In section 11(1) of the *Rehabilitation of Offenders Act 2001*, in the definition of “custody” omit “and includes penal servitude”.

103 Anti-terrorism and Crime Act 2003

In Schedule 2A to the *Anti-Terrorism and Crime Act 2003*, in paragraph 1(i) for “felony” substitute «offence».

104 Local Government Act 2006

After section 11 of the *Local Government Act 2006* insert, —

«11A Arrest to secure rates

1916/2/366

(1) Subsection (2) applies if —

- (a) a person (“P”) who owes any rate to the commissioners quits or is about to quit any building or land before paying all rates due from P in respect of the building or land, and
- (b) P refuses to pay the same upon demand.

(2) Where this subsection applies, it is lawful for a judge of the High Court, without issuing any previous summons to P, upon proof by affidavit to the judge’s satisfaction of the facts referred to in paragraphs (a) and (b) of subsection (1), to issue a warrant ordering the coroner to arrest so much of the goods and chattels of P, wherever they may be, to enable them to be applied in discharge of the rate and the reasonable costs, charges, and expenses of and incidental to the arrest.

11B Surplus of rate in any year applied to the following year

1916/2/367

If any sum of money by way of a surplus of a rate remains in the hands of the commissioners after payment of the whole of their expenses for any year which are payable out of the rate, the surplus is to be applied towards the same purpose for the following year.»

105 Endangered Species Act 2010

(1) The *Endangered Species Act 2010* is amended as follows.

(2) In section 7(3) for the words following “of an offence” substitute, —

«Maximum penalty, —

- (a) (summary (High Bailiff)) 2 years’ custody or a fine;
- (b) (summary) 12 months’ custody or a level 5 fine.».

(3) In section 13, —

(a) at the end of subsection (2) add, —

«Maximum penalty, —

- (a) for a Class A specimen —

- (i) (summary (High Bailiff)) — 2 years' custody or a fine;
 - (ii) (summary) 12 months' custody — or a level 5 fine;
 - (b) for a Class B specimen — (summary) 6 months' custody or a level 5 fine.»;
- (b) omit subsections (6) and (7).
- (4) In section 34(2) for the words following "of an offence" substitute, —
 - «Maximum penalty, —
 - (a) (summary (High Bailiff)) — 2 years' custody or a fine;
 - (b) (summary) — 12 months' custody or a level 5 fine.».
- (5) In section 35 —
 - (a) after the end of subsection (2) insert, —
 - «Maximum penalty for an offence under subsection (1) or (2) —
 - (a) summary (High Bailiff) — 2 years' custody or a fine;
 - (b) summary — 12 months' custody or a level 5 fine.»;
 - (b) omit subsection (3).

106 Interpretation Act 2015

- (1) The *Interpretation Act 2015* is amended as follows.
- (2) ~~In section 55 after subsection (2) insert, —~~
 - ~~«(2A) If a Manx enactment (whenever passed or made) provides, —~~
 - ~~(a) — that a person is liable on summary conviction to a fine of a specified level (for example "a level 5 fine"); or~~
 - ~~(b) — confers power by statutory to make a person liable on summary conviction to a fine or a maximum fine by reference to a particular level (for example "level 5");~~
 - ~~that enactment is to be construed as referring to the corresponding level shown in the table in subsection (1) as it has effect for the time being.».~~
- (3) ~~In section 57, —~~
 - ~~(a) — in subsection (1)(b) for "(on information)" substitute «(on information), (summary (High Bailiff))»;~~
 - ~~(b) — for the examples at the end of subsection (1) substitute, —~~
 - ~~«Examples for paragraph (b):~~
 - ~~1. — "Maximum penalty (on information) 7 years' custody or a fine."~~
 - ~~2. — "Maximum penalty (summary (High Bailiff)) 2 years' custody or a fine.~~
 - ~~3. — "Maximum penalty (summary) a fine of level 5.»;~~

(c) ~~for subsections (3) and (4) substitute, —~~

~~«(3) The words “(summary (High Bailiff))” mean the penalty which may be imposed, following a summary conviction, by a court of which the High Bailiff is a member (see section 1A of the *Summary Jurisdiction Act 1989*) for the offence mentioned in section 56.~~

~~Note: this expression will not appear in relation to an offence which may be tried on information because, by virtue of section 1A of the *Summary Jurisdiction Act 1989*, the High Bailiff will always be able to impose a sentence of up to 2 years’ custody (or the maximum sentence on information for the offence if less) unless it is one for which the sentence is fixed by law.~~

~~(4) The word “(summary)” refers to the penalty which may be imposed by a court of summary jurisdiction (whether or not the High Bailiff is a member of the court) following a summary conviction for the offence mentioned in section 56.».~~

(2) In section 55 – ▴

(a) after subsection (2), insert –

«(2A) If a Manx enactment (whenever passed or made) –

- (a) provides that a person is liable on summary conviction to a fine of a specified level (for example “a level 5 fine”); or
- (b) confers power by statutory document to make a person liable on summary conviction to a fine or a maximum fine by reference to a specified level (for example “level 5”);

that enactment is to be construed as referring to the corresponding level shown in the table in subsection (1) as it has effect from time to time.».

(b) after subsection (8), insert –

«(8A) Subsection (8) does not affect section 9(1) (jurisdiction of courts of summary jurisdiction extended) or section 1A (extended powers of courts of summary jurisdiction) of the *Justice Reform Act 2021* in respect of the powers of courts of summary jurisdiction to impose a fine.»;

(3) For section 57 substitute – ▴

«57 Meaning of additional words “(on information)” and “(summary)”

(1) This section applies if –

- (a) section 56 applies for a particular provision; and
- (b) the words “(on information)” or “(summary)” appear after the words “maximum penalty” (whether or not immediately after) the stated penalty for the provision.

Examples for paragraph (b):

1. *“Maximum penalty (on information) — 7 years’ custody or a fine.”*
 2. *“Maximum penalty (summary) — a fine of level 5.”*
- (2) The words “(on information)” mean the penalty refers to a conviction on information for the offence.
 - (3) The word “(summary)” means the penalty which may be imposed by a court of summary jurisdiction (whether or not the High Bailiff is a member of the court) following a summary conviction for the offence.
 - (4) If the word “(summary)”, but not “(on information)”, appears in the provision, a proceeding for an offence against the provision is a summary offence only.
 - (5) An offence that is expressed to the “triable on information” includes any offence which by virtue of the extended jurisdiction of courts of summary jurisdiction, is capable of being tried in a court of summary jurisdiction. (see section 1A(1) of the *Summary Jurisdiction Act 1989*).».
 - (b) in the Schedule (defined terms), in paragraph 1, after the definition of “Douglas Corporation”, insert —
 «**“either way offence”** means an offence that is triable on information or by a court of summary jurisdiction;»».

SCHEDULE 2

PROCEEDS OF CRIME ACT 2008 AMENDED IN CONSEQUENCE OF THE
EXTENSION OF THE HIGH BAILIFF'S SENTENCING POWERS

[Section 10(3)]

1 Proceeds of Crime Act 2008 amended

The *Proceeds of Crime Act 2008* is amended as follows,

2 Section 51 substituted: appeals in relation to forfeiture of cash

For section 51 substitute, —

«51 Appeal against decision under section 50

- (1) Any party to proceedings for an order for the forfeiture of cash under section 50 who is aggrieved by an order under that section or by the decision of the court not to make such an order may appeal to a judge of the High Court in civil proceedings.
- (2) An appeal under subsection (1) must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.
- (3) The court hearing the appeal may make any order it thinks appropriate.
- (4) If the court upholds an appeal against an order forfeiting the cash, it may order the release of the whole or any part of the cash.
- (5) An appeal lies to the Staff of Government Division, in accordance with rules of court, at the instance of either party to the proceedings before the judge, against any order under subsection (3) or (4), but only on a point of law.
- (6) On an appeal under subsection (5) the Staff of Government Division has the same powers as the judge under subsections (3) and (4).».

3 Section 52 amended

In section 52(2)(a) for “an appeal” substitute «any appeal».

4 Restructuring of Part 2

Substitute, immediately before the provision specified in column 1 of the Table (and the section heading for that provision), for the text specified in column 2, that specified in column 3.

Provision	Existing text	New text
Section 66	Confiscation orders	Division 1: Confiscation orders
Section 74	Procedural matters	Division 2: Procedural matters
Section 79	Reconsideration	Division 3: Reconsideration
Section 87	Defendant absconds	Division 4: Defendant absconds
Section 91	Appeals	Division 5: Appeals
Section 93	Enforcement as fines etc.	Division 6: Enforcement
Section 96	Restraint orders	Division 7: Restraint orders
Section 103	Management receivers	Division 8: Management receivers
Section 105	Enforcement receivers	Division 9: Enforcement receivers
Section 107	Application of sums	Division 10: Application of sums received
Section 109	Restrictions	Division 11: Restrictions
Section 111	Receivers: further provisions	Division 12: Further provisions about receivers
Section 120	Compensation	Division 13: Compensation
Section 122	Enforcement abroad	Division 14: Enforcement abroad
Section 123	Interpretation	Division 15: Interpretation
Section 137	General	Division 16: General

5 Making of confiscation order — section 66 amended

In section 66, —

- (a) in subsection (1) for “The Court of General Gaol Delivery” substitute «A relevant court»;
- (b) in subsection (2)(a) for “the Court of General Gaol Delivery” substitute «a relevant court» ;
- (c) subsection (2)(c) is repealed;
- (d) in subsections (3) to (7) for “court” (wherever occurring) substitute «relevant court».

6 Confiscation orders: time for payment — section 71 amended

In section 71(4) for “the Court of General Gaol Delivery” (wherever it occurs) substitute «the relevant court which made the confiscation order».

7 Confiscation orders: effect of order on court’s other powers — section 73 amended

In section 73(5)(a) for “the Court of General Gaol Delivery” substitute «a relevant court».

8 No confiscation order made: reconsideration of case — section 79 amended

In section 79(1)(c) for “the Court of General Gaol Delivery” substitute «the court before which the defendant was convicted».

9 No confiscation order made: reconsideration of benefit — section 80 amended

In section 80(3)(b) for “the Court of General Gaol Delivery” substitute «the relevant court».

10 Confiscation order made: reconsideration of benefit — section 81 amended

In section 81(1)—

- (a) in paragraphs (a) and (c) for “court” substitute «relevant court»;
- (b) in paragraph (d) for “the Court of General Gaol Delivery” substitute «the court which made the confiscation order»;
- (c) in paragraph (e) for “the court” substitute «that court».

11 Confiscation order made: reconsideration of available amount — section 82 amended

In section 82(1)(c) for “the Court of General Gaol Delivery” substitute «the court which made the confiscation order».

12 Inadequacy of available amount or small amount outstanding — sections 83 to 85 amended

In sections 83(1)(b), 84(1)(b) and 85(1)(b) for “the Court of General Gaol Delivery” substitute «that court».

13 Defendant absconding after conviction or committal — section 87 amended

(1) In section 87, —

- (a) in subsection (2)—
 - (i) in paragraph (a) for “the Court of General Gaol Delivery” substitute «a relevant court»;
 - (ii) after the end of that paragraph add «or»;
 - (iii) omit paragraph (c) and the word “or” immediately preceding it;
- (b) in subsection (3)(a) for “the Court of General Gaol Delivery” substitute «a relevant court».

(2) For the heading to the section substitute —

«87 Defendant absconding after conviction or committal».

14 Defendant absconding before determination of guilt — section 88 amended

(1) (In section 88, —

(a) in subsection (3)—

(i) in paragraph (a) for “the Court of General Gaol Delivery” substitute «the relevant court before which the defendant last appeared in the proceedings»; and

(ii) at the end of the subsection insert, —

«If the defendant has never appeared before a relevant court in the proceedings, the application is to be made to the High Bailiff.»; and

(b) in subsection (7)(b) for “the Court of General Gaol Delivery” substitute «a relevant court».

(2) For the heading to the section substitute, —

«88 Defendant absconding before determination of guilt».

15 Variation of confiscation order — section 89 amended

In section 89(1)(e) for “the Court of General Gaol Delivery” substitute «the relevant court that convicted the defendant».

16 Discharge of confiscation order — section 90 amended

(1) Section 90 is amended as follows.

(2) In subsection (1)(c) for “the Court of General Gaol Delivery” substitute «the High Bailiff»;

(3) In subsection (2) for “the court” substitute «the High Bailiff»;

(4) In subsection (3)(d) for “to the Court of General Gaol Delivery” substitute, —

«to the High Bailiff or, in a case where the defendant has appeared before a Court of General Gaol Delivery in the proceedings, that court».

(5) In subsection (4) for “the court” substitute «the High Bailiff or the Court of General Gaol Delivery (as the case requires)».

(6) For subsection (5) substitute, —

« (5) On discharging a confiscation order under this section, the High Bailiff or a Court of General Gaol Delivery (as the case requires)

may by order make such consequential or incidental provision as appears appropriate.«.

17 Confiscation order: appeal by prosecutor — section 91 amended

In section 91 for “the Court of General Gaol Delivery” (in both places) substitute «a relevant court».

18 Confiscation orders: court’s powers on appeal — section 92 amended

In section 92, —

- (a) in subsection (2)(b), for “the Court of General Gaol Delivery” substitute «the relevant court, whose decision was the subject of the appeal»;
- (b) in subsections (3), (5) and (11), for “the Court of General Gaol Delivery” substitute «the relevant court».

19 Provisions about custody — section 94 amended

In section 94, —

- (a) subsection (3) is repealed; and
- (b) in subsection (4) for “subsection (3)” substitute «subsection (1)(b)».

20 Reconsideration etc: variation of custody — section 95 amended

In section 95(5) for “the Court of General Gaol Delivery” substitute «the relevant court».

21 Restraint orders: conditions for exercise of power — section 96 amended

In section 96, —

- (a) in subsection (1) for “The Court of General Gaol Delivery” substitute «A relevant court»;
- (b) in subsection (3)(b) for “is reasonable cause to believe” substitute «are reasonable grounds to suspect»;
- (c) in subsection (5)(b) and (6)(b) —
 - (i) after “court” insert «determining that application»; and
 - (ii) omit “under that section”.

22 Making of restraint order — section 97 amended

In section 97(1) for “the Court of General Gaol Delivery” substitute «a relevant court».

23 Application, discharge and variation of restraint orders — section 98

amended

In section 98, —

- (a) in subsection (1)(b) after “Deemster” insert «or a High Bailiff sitting in either case,»;
- (b) for subsection (2) substitute —
 - « (2) An application to vary or discharge a restraint order or an order under section 97(7) may be made —
 - (a) to a Court of General Gaol Delivery, if the order was made by a Deemster; or
 - (b) to the High Bailiff, if the order was made by the High Bailiff.
 Such an application may be made by the person who applied for the order, or any person affected by the order.».

24 Restraint orders: appeal to Staff of Government Division — section 99 amended

In section 99(2) for “the Court of General Gaol Delivery’s decision substitute «the relevant court’s decision».

25 Appointment of management receiver — section 103 amended

In section 103, —

- (a) in subsection (1) for “the Court of General Gaol Delivery” substitute «a relevant court»; and
- (b) in subsection (2) for “The Court of General Gaol Delivery” substitute «A relevant court».

26 Enforcement receivers — sections 105 and 107 amended

In sections 105(2) and 107(2)(b) and (3)(a) for “the Court of General Gaol Delivery” substitute «the court which made the confiscation order».

27 Restraint orders: restrictions — section 109 amended

In sections 109(2) and (3) for the words from “except with the leave of the Court of General Gaol Delivery” to the end of the subsection substitute —

- « “except with the leave of the court that made the restraint order, and subject to any terms which that court may impose.».

28 Enforcement receivers: restrictions — section 110 amended

In section 110(2) and (3) for the words from “except with the leave of the Court of General Gaol Delivery” to the end of the subsection substitute —

«except with the leave of the court that made the order appointing the receiver, and subject to any terms which that court may impose.».

29 Further applications — section 112 amended

- (1) In section 112, —
- (a) in subsection (2) for “the Court of General Gaol Delivery” substitute «the court which appointed the receiver»; and
 - (b) in subsection (3) for “may apply to the Court of General Gaol Delivery” substitute «may also apply to that court».
- (2) At the end of the section heading add «about receivership».

30 Discharge and variation of receivership — section 113 amended

In section 113(1) for the words preceding paragraph (a) substitute —

«An order under Division 8 or 9 of this Part may be varied or discharged, by the court which made it, on the application of, —».

31 Committal to, and sentencing by a Court of General Gaol Delivery — sections 118 and 119 repealed

Sections 118 and 119 are repealed, but the repeal does not affect a Court of General Gaol Delivery’s power to deal with an offender in accordance with those sections if the committal of the defendant takes place before the repeal of section 118 comes into operation.

32 Serious default — section 120 amended

In section 120(1) for “the Court of General Gaol Delivery” substitute «the High Bailiff or, where a person appeared before the Court of General Gaol Delivery, that court».

33 Confiscation orders varied or discharged — section 121 amended

In section 121(1)—

- (a) in paragraph (a) for “the court” substitute «a relevant court»; and
- (b) in paragraph (b) for “the Court of General Gaol Delivery” substitute «that court».

34 Proceedings — section 133 amended

In section 133, —

- (a) in subsection (5) for “the Court of General Gaol Delivery” substitute «a relevant court»;
- (b) in subsection (6) —

- (i) in the opening words for “the Court of General Gaol Delivery” substitute «a relevant court»;
- (ii) in paragraphs (c), (d) and (e) for “the Court of General Gaol Delivery’s” (wherever occurring) substitute “the relevant court’s”;
- (iii) in paragraphs (f) and (g) for “the Court of General Gaol Delivery” (wherever occurring) substitute “the relevant court”.

35 Other interpretative provisions for Part 2 — section 136 amended

In section 136 insert, —

- | « (5A) The “relevant court” means, as the case requires —
- | (a) a Court of General Gaol Delivery; or
 - | (b) the High Bailiff sitting as a court of summary jurisdiction.».

36 Amendments in consequence of the extended jurisdiction of the court of summary jurisdiction – section 224 amended

The Department may by Regulations amend this schedule and any other Manx enactment to make supplemental, incidental consequential, transitional and saving provision in furtherance of the extension of the jurisdiction of the court of summary jurisdiction.

Tynwald procedure – approval required.

SCHEDULE 3

ABOLITION OF COMMITTAL PROCEEDINGS – CONSEQUENTIAL AMENDMENTS

[Section 12(3)]

1 Libel and Slander Act 1892

- (1) The *Libel and Slander Act 1892* is amended as follows.
- (2) Sections 10 to 13 are repealed.
- (3) For section 14 substitute, —

«14 Obscene matter need not be set out in information or other pleadings

- (1) It shall not be necessary to set out, in any information or document initiating judicial proceedings which are instituted against the publisher of any obscene libel, the obscene passages, but on the initiation of civil proceedings, it shall be sufficient for the claimant to lodge at the General Registry along with the claim form, the book, newspaper or other publication alleged to contain the libel, together with particulars indicating where in the book, newspaper or other publication the alleged libel is to be found.
- (2) The particulars lodged under subsection (1) form part of the information or other document initiating the proceedings.».

2 Theft Act 1981

In section 30(4) of the *Theft Act 1981* omit “, the depositions taken at any committal proceedings”.

3 Criminal Law Act 1981

In paragraph 1 of Schedule 4 to the *Criminal Law Act 1981*, omit “other than committal proceedings”.

4 PPPA1998

- (1) PPPA 1998 is amended as follows.
- (2) In section 70(2), omit paragraph (a).
- (3) In section 72(2), omit paragraph (a).
- (4) In section 73(2), omit paragraph (a).

5 Criminal Justice, Police and Courts Act 2007

- (1) The *Criminal Justice, Police and Courts Act 2007* is amended as follows.
- (2) In section 40, subsection (4) is repealed.

6 Financial Intelligence Unit Act 2016

In section 29(3)(b)(iii) of the *Financial Intelligence Unit Act 2016* for “in a case where there have been no committal proceedings” substitute «in a case where there have been no proceedings before a court of summary jurisdiction».

SCHEDULE 4

SCHEDULE TO BE INSERTED AS SCHEDULE 1A TO THE REHABILITATION OF
OFFENDERS ACT 2001

[Section 76(4)]

«SCHEDULE 1A

PROTECTION FOR SPENT CAUTIONS

[Section 7A(1)]

1 Preliminary

P1974/53/Sch.2 para 1

- (1) For the purposes of this Schedule a caution shall be regarded as a spent caution, —
 - (a) in the case of a conditional caution (as defined in section 57 of the *Justice Reform Act 2021*), at the end of the relevant period for the caution;
 - (b) in any other case, at the time the caution is given.
- (2) In sub-paragraph (1)(a) “the relevant period for the caution” means (subject to sub-paragraph (3)) the period of 3 months from the date on which the conditional caution was given.
- (3) If the person concerned is subsequently prosecuted and convicted of the offence in respect of which a conditional caution was given, —
 - (a) the relevant period for the caution shall end at the same time as the rehabilitation period for the offence; and
 - (b) if the conviction occurs after the end of the period mentioned in sub-paragraph (1)(a), the caution shall be treated for the purposes of this Schedule as not having become spent in relation to any period before the end of the rehabilitation period for the offence.

2 Meaning of “ancillary circumstances” for a caution

P1974/53/Sch.2 para 2

- (1) In this Schedule “ancillary circumstances”, in relation to a caution, means any circumstances of the following, —
 - (a) the offence which was the subject of the caution or the conduct constituting that offence;
 - (b) any process preliminary to the caution (including consideration by any person of how to deal with that offence and the procedure for giving the caution);

- (c) any proceedings for that offence which take place before the caution is given (including anything which happens after that time for the purpose of bringing the proceedings to an end);
 - (d) any ~~judicial review~~ proceedings under a petition of dolence relating to the caution;
 - (e) in the case of a conditional caution, any conditions attached to the caution or anything done in pursuance of or undergone in compliance with those conditions.
- (2) Where the caution relates to 2 or more offences, references in sub-paragraph (1) to the offence which was the subject of the caution include a reference to each of the offences concerned.
- (3) In this Schedule “proceedings before a judicial authority” has the same meaning as in section 6(2).

3 Protection relating to spent cautions and ancillary circumstances

P1974/53/Sch.2 para 3

- (1) A person who is given a caution for ~~an offence~~ is **an offence**, from the time the caution is spent, is to be treated for all purposes in law as a person who has not committed, been charged with or prosecuted for, or been given a caution for the offence; and notwithstanding the provisions of any other enactment or rule of law to the contrary, —
- (a) no evidence is admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in the Island to prove that any such person has committed, been charged with or prosecuted for, or been given a caution for the offence; and
 - (b) a person must not, in any such proceedings, be asked and, if asked, is not required to answer, any question relating to his or her past which cannot be answered without acknowledging or referring to a spent caution or any ancillary circumstances.
- (2) Nothing in sub-paragraph (1) applies in relation to any proceedings for the offence which are not part of the ancillary circumstances relating to the caution.
- (3) Where a question seeking information with respect to a person’s previous cautions, offences, conduct or circumstances is put to him or her or to any other person otherwise than in proceedings before a judicial authority, —
- (a) the question shall be treated as not relating to spent cautions or to any ancillary circumstances, and the answer may be framed accordingly; and

(b) the person questioned shall not be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose a spent caution or any ancillary circumstances in his or her answer to the question.

(4) Any obligation imposed on any person by any rule of law or by the provisions of any agreement or arrangement to disclose any matters to any other person does not extend to requiring him or her to disclose a spent caution or any ancillary circumstances (whether the caution is his or her own or another's).

(5) A caution which has become spent or any ancillary circumstances, or any failure to disclose such a caution or any such circumstances, does not constitute a proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or for prejudicing him or her in any way in any occupation or employment.

(6) This paragraph has effect subject to paragraphs 4 to 6.

4 Power to amend by order

P1974/53/Sch.2 para 4

The Department of Home Affairs may by order, —

(a) make provision for excluding or modifying the application of either or both of paragraphs (a) or (b) of paragraph 3(3) in relation to questions put in such circumstances as may be specified in the order;

(b) provide for exceptions from the provisions of subparagraphs (4) and (5) of paragraph 3, in such cases or classes of case, and in relation to cautions of such a description, as may be specified in the order.

Tynwald procedure — approval required.

5 Exceptions from paragraph 3

P1974/53/Sch.2 para 5

Nothing in paragraph 3 affects, —

(a) the operation of the caution in question; or

(b) the operation of any enactment by virtue of which, in consequence of any caution, a person is subject to any disqualification, disability, prohibition or other restriction or effect, the period of which extends beyond the rehabilitation period applicable to the caution.

6 Application of section 5 for the purposes of Schedule

P1974/53/Sch.2 para 6

~~Section 5(2) and (3) apply for the purposes of this Schedule as follows~~
Section 5(2), (3) and (4) apply for the purposes of this Schedule as follows, —

- (a) subsection (2) applies to the determination of any issue, and the admission or requirement of any evidence, relating to a person's previous cautions or to ancillary circumstances as it applies to matters relating to a person's previous convictions and circumstances ancillary to such convictions; and
- (b) subsection (3) applies to evidence of a person's previous cautions and ancillary circumstances as it applies to evidence of a person's convictions and the circumstances ancillary to such convictions.

7 Application of section 10 for the purposes of Schedule

Section 10(1) applies as if a reference to sections 3(1), 4 and 5(1) included a reference to paragraph 3(1).».

ENDNOTES

Table of Endnote References

¹ ADO – see table

Provision	SD Number	Date in Operation
Section 2(3)	2022/0265	07/09/2022
Sections 4 and 5	2024/0046	20/02/2024
Sections 88 to 102	2022/0265	07/09/2022
Section 103(1), (2), (3), (6) and (7)	2022/0265	07/09/2022
Sections 104 to 108	2022/0265	07/09/2022
Sections 110 to 113	2022/0265	07/09/2022

² Subs (2) substituted by SD2024/0045.

³ Subs (3) amended by SD2024/0045.

⁴ Editorial Note: Amendment not made owing to an error in the text.