



**Isle of Man**  
Government

*Reiltys Ellan Vannin*



# The Administration of Justice and other Amendments Bill 2020

Consultation

*Yn Tashtey*  
Treasury

19 October 2020

# Consultation overview

## **The Administration of Justice and other Amendments Bill 2020**

Views are sought on the draft Administration of Justice and other Amendments Bill 2020 (the "Bill").

The Bill has been developed following policy consultation on the options for improving how civil debts are recorded and made accessible in the Island, and for improving the effectiveness of debt recovery by the Coroners.

It is envisioned that the improvements in how civil debts are recorded and made available in the Island will, over time, lead to a reduction in such debts arising. This is because the improved register will enable anyone considering entering into a business arrangement with another person an opportunity to review, and take into account, the credit worthiness of that person before doing so.

Improvements in the effectiveness of debt recovery by the Coroners will ensure that where such civil debts do arise, there is a greater likelihood of the sums of money owed being returned to a creditor by the Coroner.

Feedback from the policy consultation was published in 2018 [consult.gov.im/treasury/the-collection-of-civil-debt](https://consult.gov.im/treasury/the-collection-of-civil-debt) and the results have been used to shape the draft Bill.

## **Background**

The Treasury is undertaking a wide reaching review of civil debt recovery in the Island including the underlying legislation, organisational framework and internal procedures.

The review has been established in order to modernise the arrangements for civil debt recovery and insolvency in the Island, and to ensure that these arrangements are fair, effective and fit for purpose.

The review will consist of three phases and this Bill forms the concluding part of Phase I. Phase I has focused on improving the underlying framework for civil debt recovery in the Island. Phase II will follow by looking at the Coroner structure and phase III will focus on insolvency arrangements in the Island.

## **The Bill**

The Bill has two key policy outcomes -

- To introduce a more comprehensive and easily accessible register of judgments and other civil debts in the Island (a register of debts); and
- To level the playing field for the enforcement of civil debts in the Island by removing statutory provisions that inhibit the effectiveness of Coroners undertaking enforcement action.

The preparation of the Bill has been more complex than originally anticipated, with consideration of the secondary impact of the changes proposed and data protection matters dominating preparatory time.

However, the draft of the Bill has now been finalised and comments are invited on the arrangements contained within it.

As discussed at policy consultation, levelling the playing field for the enforcement of civil debt was expected to consist of two key changes that would address –

1. Arrangements within landlord and tenant legislation that prevent a Coroner from undertaking enforcement action in certain circumstances; and
2. Crown preference arrangements which mean that a Coroner must enforce Treasury warrants for payment as a priority above any other executions held by a Coroner against the same execution debtor.

Following detailed work on these two issues during the drafting of the Bill, it was decided that the Crown preference arrangements will be dealt with in Phase II of the project, when a review of the operation of the Coroners is undertaken. The removal of the preferential status of debts enforced by warrants for payment is so closely connected to the second phase of the project that any changes made to enforcement of warrants for payment by the Coroners as a result of changes to preference given to certain Crown debts at this stage would need to be revisited in Phase II in any event.

As such, whilst the Treasury remains committed to removing the preference given to debts enforced by warrants for payments, the resource commitment to undertake the work as part of this Bill simply cannot be justified. The most pragmatic and efficient approach is to defer the changes to Phase II of the project when they can be considered as part of the wider review of how the Coroners operate generally.

## **Consultation**

This consultation is split into four key parts following the structure of the Bill. It also contains a final part, which looks at proposals for the Register Regulations. Consultees are invited to respond to any or all of these parts as follows –

**[Part 1](#)** – Introductory (clauses 1 & 2)

**[Part 2](#)** – Amendment of the Administration of Justice Act 1981 (clauses 3 to 7)

**[Part 3](#)** - Amendment of the Summary Jurisdiction Act 1989 (clauses 7 and 9)

**[Part 4](#)** – Consequential Amendments and Repeals (clauses 10 to 22)

**[The Register Regulations](#)** (proposals)

### Responding to this consultation

Any comments or questions that are not otherwise submitted through the Isle of Man Government's Consultation Hub, should be submitted in writing to -

Policy & Legislation Office,  
The Treasury  
1 Floor, Government Office,  
Bucks Road, Douglas  
IM1 3PU

Or by email to: [Treasuryconsultations@gov.im](mailto:Treasuryconsultations@gov.im)

The closing date for the receipt of comments is **Monday 30 November 2020**.

## **Confidentiality**

The information you send may be published in full or in a summary of responses.

When submitting your comments please indicate whether you are responding on behalf of an organisation (and if so which organisation) or on your own behalf.

Please let us know whether we can publish your comments in full (including your name or the name of the organisation you are representing), anonymously, or not at all (noting that if you select this option your response will only be part of a larger summary response document).

All information in responses, including personal information may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2015 and the Data Protection Act 2018). If you want your response to remain confidential, you should explain why confidentiality is necessary and your request will be agreed to only if it is appropriate in the circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding.

All responses submitted will be held within the Isle of Man Government's consultation hub and will be treated in accordance with the [privacy policy](#).

## **Part 1**

### **Introductory**

Part 1 of the Bill (clauses 1 and 2) provide introductory arrangements for the legislation.

## **Part 2**

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

Part 2 of the Bill (clauses 3 to 7) provides the main basis for the revision of the Island's Judgments Register (the "register"). The changes made in this part of the Bill are supported by a number of amendments made in Part 4 of the Bill (Consequential Amendments and Repeals).

#### **Clause 3 – Amendment of the Administration of Justice Act 1981**

Clause 3 provides that Part 2 of the Bill amends the Administration of Justice Act 1981 (the "AJA").

#### **Clause 4 - Amendment of section 12 (priorities)**

Clause 4 amends section 12 of the AJA (priorities).

The AJA provides for the enforcement of execution orders by a Coroner. Currently, section 12 of the AJA specifies that any sums that are received by a Coroner from an execution debtor following such enforcement shall be applied in satisfaction of execution orders in accordance with priorities that were applicable at the time the AJA commenced.

The priorities of execution orders are set out in the Debtors Act 1820, but the priorities are subject to preferences for certain debts, including those in the Preferential Payments Act 1908 (which includes Crown debts) and the landlord's preference provided for in the Recovery of Rent Act 1954 ("RoRA"). The Bill does not change the order of priorities for execution orders, but it does make a change to the preferences to which the order of priorities is subject. The Bill at clause 14 repeals RoRA. With that repeal, the landlord's preference will no longer be applicable and in consequence the order of priorities for execution orders will not be the order that was applicable when the AJA commenced.

<b>Question 1</b>
Do you have any comments on the proposed changes to section 12 of the AJA in consequence of the repeal of RoRA?

#### **Clause 5 - Register of Judgments**

Clause 5 provides revised arrangements which aim to improve the transparency of, and access to, the register. The clause provides for the substitution of section 15 of the AJA with revised arrangements which are explained in the following part of this consultation.

## **New section 15**

The new section 15(1) will establish the range of determinations which the Chief Registrar must record on the register. These determinations are limited to decisions upon which a sum of money is payable, but with the express exclusion of fines. The existing statutory responsibility that is vested in the Chief Registrar to keep the register is unaltered.

The meaning of a 'judgment' is found in section 15(6).

In respect of judgments of the High Court and tribunals, it is expected that the Register Regulations (see section 15(2)) will provide that all judgments made in a private setting will be exempt from entry in the register. With the exception of default judgments, which are entered into the existing register at judgment stage, it is expected that otherwise eligible judgments will be exempt from register entry until execution has been granted on the judgment.

The register will contain sums due by virtue of warrants for payment. The definition of a warrant for payment is found in clause 6 and includes the four types of warrant that may be issued by the Assessor or the Treasury under relevant statutes. Warrants for payment includes warrants (i) relating to unpaid income tax; (ii) issued under the social security legislation relating to recovery of social security contributions and overpaid benefits; (iii) relating to overdue VAT; and (iv) relating to gambling duty. Unlike judgments arising in the courts, details of warrants for payment are not currently publically available.

A warrant for payment has a statutory basis which enables it to be enforced by a Coroner in the same manner as a court execution.

The issuing of a warrant is preceded by a person being notified that they are liable to pay a sum of money to Government in accordance with relevant legislation. As part of this notification, a person is advised that in the absence of arrangements being made to pay the sum due within a specified timeframe (or an appeal being raised), a warrant may be issued. Any appeal that is raised regarding the amount which a person is assessed to be liable to pay is heard by a tribunal.

It is only when a person fails to engage in the process to pay the sum of money that they are notified that they owe, or where an appeal in respect of the sum determined to be owed is unsuccessful, that a warrant for payment will be issued to the person.

<b>Question 2</b>
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Do you agree with the range of judgments and warrants which will be included on the register?
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<b>Question 3</b>
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Do you consider that the register should or should not include any particular type of judgment or warrant?
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Section 15(2) provides that the register must be kept in accordance with the Register Regulations (the "Regulations") which will be made by the Deemsters. Under subsection 15(3), the Deemsters

must consult with persons they consider appropriate before making the Regulations. Sections 15(4) and 15(5) specify what must or may be included in the Regulations.

Proposals for the matters to be contained in the Regulations are found later in this consultation.

Question 4
Who do you consider should be consulted regarding the making of the Register Regulations?

Question 5
Do you have any views on the matters which must or may be included in the Register Regulations?

Under section 15(7) the Treasury may by order (subject to the approval of Tynwald) amend the class of decision that must be included on the register.

Question 6
Do you have any views on whether an order under new section 15(7) should be made by the Treasury or any other Government body?

Question 7
Do you think that the body making the order should be required to consult with any other parties regarding the making of an order, and if so, which parties?

### **New section 15A**

The new section 15A(1) and (2) places an obligation on the Assessor, the Treasury and the clerks of the relevant tribunals to provide to the Chief Registrar information that is necessary for the inclusion of decisions on the register. The provisions clarify that the information is shared for the purpose of the keeping of the register and for the purpose of the register being published.

Section 15A(3) provides that, despite any other statutory provision or rule of law restricting information disclosure, the Assessor, the Treasury or the clerk of a relevant tribunal must provide the Registrar with the particulars required to be entered on the register. Section 15A imposes on the Assessor, the Treasury and the clerks of the relevant tribunals a legal obligation to provide the necessary information for the register, which they must therefore be able to do without contravening any other statutory provision or rule of law. However, no provision of information under this provision may contravene the data protection legislation (see the proposed section 15D).

The arrangements found under section 15A(1) are supported by the introduction of data sharing gateways within relevant income tax and Treasury legislation (see clauses 16, 18 and 22 of the Bill).

Question 8
Do you have any comments on the proposed arrangements for the provision of information for the register to the Chief Registrar under section 15A?

### **New section 15B**

The new section 15B provides for the keeping and publication of the register. The Chief Registrar will be responsible for keeping the register at all times and the manner in which the register is to be kept will be at the Chief Registrar's discretion. The Chief Registrar will maintain control of the register data to the extent that any modifications to that data come to the Chief Registrar for verification. The Chief Registrar will also be responsible for the removal and cancellation of register entries.

Section 15B(2) places a duty on the Chief Registrar to publish information recorded on the register.

Section 15B(3) provides that the duty to publish includes the Chief Registrar being able to publish the information in the form and manner the Chief Registrar considers appropriate, including online.

The power for the Chief Registrar to publish the register in whatever manner they see fit also provides for the Chief Registrar to enter into a contract with a third party in respect of such publication. It is proposed that the Chief Registrar will contract with Registry Trust Limited, the provider of equivalent UK public registers, in respect of the publication of the Island's register. These arrangements will include making the register data available to credit reference agencies in the United Kingdom.

Question 9
Do you have any comments on the proposed arrangements for the keeping and publishing of the register under new section 15B?

### **New section 15C**

The new section 15C(1) enables the Treasury to specify fees for access to the register and for the provision of a certified copy of a register entry, when the Chief Registrar is publishing the register. Where a contract is put in place by the Chief Registrar in respect of the publication of the register, charges will be determined within that contract and published in an appropriate place.

The Treasury may also specify fees or charges in respect of functions performed or services provided by the Chief Registrar in relation to the register. As the Chief Registrar will be the point of contact for, and retain control of, matters appertaining to the register entries, these fee and charge making powers apply regardless of whether or not the Chief Registrar has put a contract in place for the publication of the register. Whilst it is not expected that fees or charges will be prescribed in the immediate term, the enabling provision provides an option to introduce fees and/or charges should administrative costs associated with these functions and services reach such a level that fees or charges are required to offset costs.

Question 10
Do you agree with the fee making proposals under this provision?



### New section 15D

The new section 15D clarifies that the arrangements set out in the previous sections do not authorise a disclosure in contravention of applicable data protection legislation in the Island.

#### Question 11

Do you have any comments on the proposed arrangements under new section 15D of the AJA?

#### Question 12

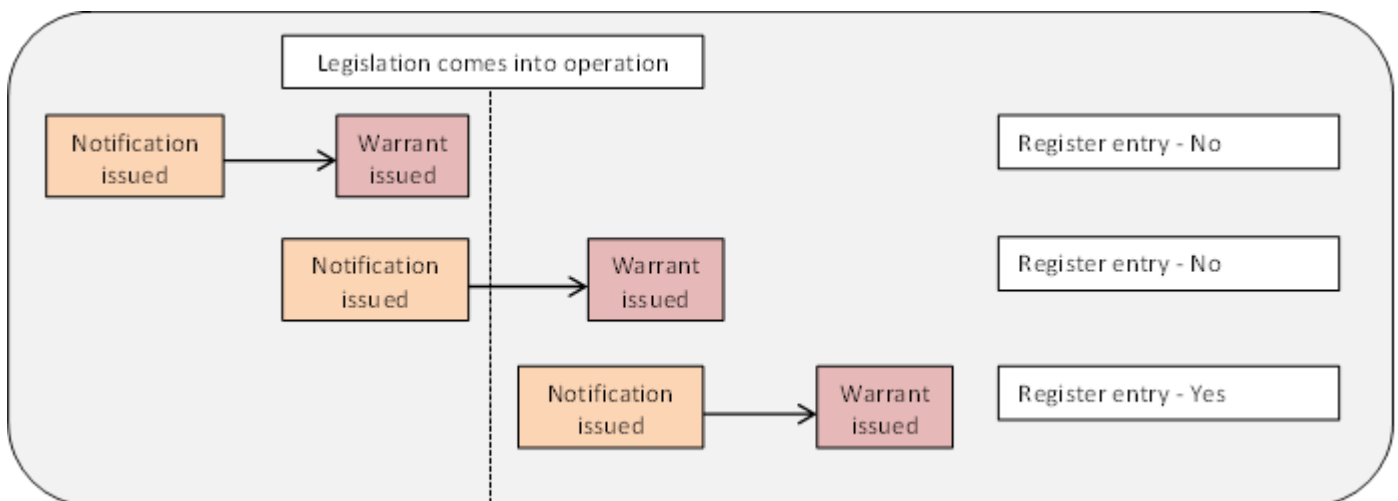
Are there any other circumstances where you consider that information must not be published or disclosed in the way proposed under the new sections 15-15B?

### New section 15E

The new section 15E provides transitional arrangements in respect of warrants for payment.

Prior to a warrant being issued, a person must be notified that they are liable to pay a sum of money to Government in accordance with relevant legislation, and that in the absence of arrangements being made to pay the sum due within a specified timeframe (or an appeal being raised), a warrant for payment may be issued.

In the event the legislation is progressed, and subsequently comes into operation, the transitional arrangement provides that warrants for payment will only be eligible for register entry if the preceding notification to the person is issued after the legislation is in operation. This is demonstrated in the following diagram –



#### Question 13

Do you have any comments on the proposed transitional arrangements under new section 15E of the AJA?

#### Question 14

Do you have any further comments on any of the matters contained in clause 5 of the Bill?

## Clause 6 – Interpretation

Clause 6 amends section 26 of the AJA to insert a number of new definitions into the AJA and to revise the definition of “execution”. These are necessary as a result of the changes made to the AJA under clause 5 of the Bill. Two key definitions are those of “execution” and “warrant for payment”.

The definition of “execution” includes the three types of execution already within the current definition - executions of the High Court, under the Collection of Fines etc., Act 1985 and under the Proceeds of Crime Act 2008. In addition, an “execution” includes executions granted by tribunals or awards of tribunals which may be enforced as if they were an execution issued by the High Court, executions granted under the Summary Jurisdiction Act 1989 and warrants for payment. The proposed revisions to the AJA regarding the register of judgments and warrants do not expressly refer to executions, but it is expected the Regulations will provide that contested judgments (including those of tribunals) will be exempt from registration until execution is granted. Warrants for payment will be treated as “executions” for the purpose of the Regulations. The definition of “execution” in section 26 has therefore been expanded to include these types of “execution”. While judgments of a court of summary jurisdiction are not included in the scope of judgments for inclusion on the register under the new section 15(1), a court of summary jurisdiction may grant an execution order which may be enforced in accordance with Part II of the AJA (section 94 of the Summary Jurisdiction Act), so it is considered appropriate to include such executions when the definition of “execution” in the AJA was being revised.

“Warrants for payment” is defined to include four types of warrant issued – (i) relating to unpaid income tax; (ii) issued under the social security legislation relating to recovery of social security contributions and overpaid benefits; (iii) relating to overdue VAT; and (iv) relating to gambling duty. A warrant can be enforced in the same manner as an execution of the High Court.

Question 15
Do you have any comments on the definitions of “execution” and “warrant for payment” provided in clause 6: do you consider the definitions are appropriate for the purpose of the registration of the types of judgments and warrants for payment that it is proposed to register?

## Clause 7 – Amendment of Schedule 1 (arrest and sale of goods etc.)

Clause 7 of the Bill amends paragraph 3 of Schedule 1 to the AJA. Schedule 1 makes provisions as to the arrest and sale of goods by a Coroner in the enforcement of an execution order.

Paragraph 3 of Schedule 1 deals with the value of goods that may be arrested by a Coroner as part of enforcement action taken. The second part of the paragraph provides that where the debtor is living at premises as a tenant and the execution does not relate to rent due as such a tenant, the Coroner must not arrest such of the debtor’s property as will amount to one year’s rent. The provision is linked to the “preferential rent” arrangements found under the Recovery of Rent Act 1954 (“RoRA”).

The amendment found in clause 7(1) will remove the requirement for a Coroner in these circumstances to leave a tenant with sufficient goods to make payment of 12 months’ rent. This amendment is necessary in order to ensure that upon the repeal of RoRA (see clause 14 of the

Bill), the AJA does not inadvertently provide for the continued operation of the preferential rent provision.

Clause 7(2) will insert paragraph 3A to Schedule 1 to the AJA. This is a transitional provision to deal with the situation where an execution order has been granted against a tenant before the coming into operation of the Bill, but the enforcement of the execution order has not taken place.

Paragraph 3A provides that an execution debtor who is a tenant will continue to be afforded the rent protection given under paragraph 3 of the schedule as it currently stands, if the Coroner is enforcing against the execution debtor an execution order granted prior to the introduction of the changes made to paragraph 3 and the execution debtor resides at premises of which he was a tenant prior to the date of the changes made by the Bill to paragraph 3.

Question 16
Do you have any comments on the transitional provision proposed under clause 7 of the Bill?

## **Part 3**

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

As part of the work to review the statutory arrangements in respect of the Judgments Register, it was recognised that arrangements in respect of the Island's register of fines, should also be considered.

The "fines register" is established under s101A of the [Summary Jurisdiction Act 1989](#) and it is maintained within a similar framework to that within which the Judgments Register is maintained.

It was considered pragmatic that as part of this project, the statutory provisions in respect of the Fines Register should be standardised with the provisions being introduced in respect of the Judgments Register. This includes arrangements for keeping and publishing the register and for charging associated fees. The content of the fines register is unchanged by the amendments proposed.

Part 3 of the Bill (clauses 8 and 9) consequently includes amendments to the Summary Jurisdiction Act 1989 to provide for this standardisation.

<b>Question 17</b>
Do you have any comments on the proposed arrangements under Part 3 of the AJA, aligning arrangements for the register of fines with the proposed arrangements for the register of civil judgment debts and debts due under a warrant for payment?

## Part 4

# Consequential Amendments and Repeals

### Clause 10 - Bankruptcy Code 1892 amended

Clause 10 repeals section 25 of the Bankruptcy Code 1892 (*power to landlord to distrain for rent*).

This provision refers to old legislation which was repealed by RoRA and directly relates to the rights of landlords provided under RoRA. It will no longer be relevant upon the repeal of RoRA.

Question 18

Do you agree with the repeal of section 25 of the Bankruptcy Code 1892?

### Clause 11 - Preferential Payments Act 1908 amendments

Clause 11 repeals section 6(a) of the Preferential Payments Act 1908 (*savings*).

Section 6(a) provides that the 1908 Act is without prejudice to section 4 of RoRA and so it will no longer be relevant upon the repeal of RoRA in accordance with clause 14 of the Bill. There is no material change to the operation of this piece of legislation as a consequence of the amendment proposed.

Question 19

Do you agree with the repeal of section 6(a) of the Preferential Payments Act 1908?

### Clause 12 - Conveyancing (Leases and Tenancies) Act 1954

Clause 12 amends section 1(2) of the Conveyancing (Leases and Tenancies) Act 1954 (*short title and construction*).

Section 1(2) provides that the 1954 Act should be read in conjunction with (amongst other things) RoRA. As a consequence of the repeal of RoRA under clause 14 of the Bill, this reference must be removed.

Question 20

Do you agree with the amendment to section 1(2) of the Conveyancing (Leases and Tenancies) Act 1954?

### Clause 13 - Landlord and Tenant Act 1954

Clause 13 of the Bill makes amendments to section 12 of the Landlord and Tenant Act 1954 (the "LTA"), which are necessary as a result of the repeal of RoRA.

Section 12 of the LTA enables a landlord to apply to the court where –

- a tenant has deserted the property;
- 6 months' rent arrears have accrued; and
- goods left in the premises are insufficient to make good the rent arrears.

Under section 12 of the LTA the court can annul the tenancy agreement, the landlord can recover possession of the property and, where applicable, any goods left on the premises by the tenant must be dealt with as though they were goods under a "landlord's arrest".

Clause 13(3)(a) of the Bill amends the circumstances within which a section 12 application can be made, to make the procedure available to landlords regardless of the value of goods left in the abandoned premises. The ability to seek recovery of property under the section is no longer linked to the value of goods left on the premises because the goods no longer have to be dealt with under section 12 as if they had been the subject of a landlord's arrest, to be applied to cover preferential rent.

#### Question 21

Do you have any comments on the amendment found in clause 13(3)(a) of the Bill which will open up the section 12 procedure under the LTA to landlords regardless of the value of goods left in the premises by a tenant?

Clause 13(3)(b) of the Bill, further amends section 12 of the LTA in respect of how any goods left on premises subject to an order under that section are to be dealt with. Under present arrangements, such goods are dealt with as though under a 'landlord's arrest', but in light of the removal of the landlord's arrest procedure by the repeal of RoRA, it is proposed that any goods left in the premises are dealt with subject to an order of the Court.

We are seeking views on whether there should be parameters to what an order of the court under this provision may provide with respect to goods left on premises deserted by a tenant. For example, the court may be permitted to authorise the destruction of the goods by the Coroner, or to order that the landlord may keep the goods, or to authorise the sale of the goods by the Coroner, with any surplus (after the payment of costs of sale and of the costs of the landlord's application and storage of the goods) being paid into court on behalf of the tenant. This may be similar to the process under the Torts (Interference with Goods) Act 1981.

#### Question 22

What are your views on the treatment of goods left on premises deserted by a tenant following a landlord's application for recovery of possession of the property under section 12 of the LTA?

The section 12 LTA procedure will continue to provide a process for a landlord to apply to the court to annul a tenancy agreement, recover possession of his or her property and to have any goods left in their premises dealt with so that the premises can be re-leased. The amendments do not interfere with the other requirements for an application under this section (the requirement that 6 months' rent arrears must have accrued and the tenant must have deserted the property) as any such amendments fall outside the scope of the Bill.

#### Question 23

In more general terms, do you have any specific concerns regarding the proposed changes to section 12 of the LTA?

## **Clause 14 - Recovery of Rent Act 1954**

Clause 14 of the Bill repeals the Recovery of Rent Act 1954.

The repeal of this piece of legislation is commensurate with the aims of the Bill to remove barriers to the enforcement of executions in the Island and that there does not appear to be an overriding argument for retaining the preferences current provided under RoRA.

The repeal of RoRA has the following effects -

### **Preferential rent**

The concept of 'preferential rent' protection will be removed from Manx legislation.

'Preferential rent' is established under section 4 of RoRA. This section provides that in circumstances where the priorities of creditors have to be ascertained for the payment of debts owed by a tenant in a property (including on bankruptcy, company liquidation and the administration of estates on death or where a Coroner seeks to enforce an execution against the tenant as an execution debtor), all rent in arrears and due by the tenant in the current period of the tenancy up to a maximum of 12 months' rent, is paid in priority to all debts. This "preferential rent" is paid subject to section 3 of the Preferential Payments Act 1908, which provides for Crown debts and other debts to have priority.

This preferential rent provision restricts the effectiveness of enforcement action undertaken by a Coroner where the execution debtor is a tenant.

### **Landlord's arrest**

The repeal of RoRA will also result in the cessation of the process of a "landlord's arrest" in the Island.

Under section 7 of RoRA, if goods liable for the payment of preferential rent are removed from the rented premises, or there are reasonable grounds to believe that such goods are about to be removed, a landlord can apply to the High Court for an order enabling such of the goods to be arrested by a Coroner as are sufficient to satisfy the sum of the preferential rent. The process is known as a "landlord's arrest", and is based upon the premise that preferential rent is due.

The following issues may be relevant for some consideration —

- Both private and commercial landlords will lose their preference for a year's rent with the repeal of RoRA. The repeal will also affect the application of the landlord's arrest procedure under section 12 of the Landlord and Tenant Act 1954 ("LTA") (see section of this consultation document on clause 13 of the Bill).
- It is anticipated that improvements to the judgments register will place landlords in a far better position in terms of checking the credit worthiness of someone who is seeking rental of premises, which may reduce the likelihood of rent arrears arising.

- Whereas when the legislation was passed in 1954, goods within a tenanted property may have held a reasonable value to satisfy rent due, it is arguable whether the value of goods is proportionate to rental costs in current times.

Question 24
Do you agree with arrangements to remove the preferential rent protection afforded to landlords from Manx legislation?

Question 25
Do you agree with arrangements to remove the landlord's arrest procedure from Manx legislation?

Question 26
Do you have any other comments on the proposed repeal of RoRA under clause 14 of the Bill?

### **Clause 15 - Tenancies (Implied Terms) Act 1954**

Clause 15 amends section 1(2) of the Tenancies (Implied Terms) Act 1954 (*short title and construction*).

Section 1(2) provides that the 1954 Act should be read in conjunction with (amongst other things) RoRA. As a consequence of the repeal of RoRA under clause 14 of the Bill, this reference must be removed.

Question 27
Do you agree with the amendment to section 1(2) of the Tenancies (Implied Terms) Act 1954?

### **Clause 16 - Income Tax Act 1970**

Clause 16 amends arrangements found under part 14 (*confidentiality and disclosure of information*) of the [Income Tax Act 1970 \("the 1970 Act"\)](#). The amendments provided under this clause do not alter existing information sharing arrangements. The amendments made by clause 16(2) provide greater transparency and clarity in respect of information sharing undertaken. The amendments made by clause 16(3) add a specific provision enabling information disclosure for the purposes of the register and the functions of the Chief Registrar under the AJA.

#### **Disclosure of information to Judgments Officer, Coroner or Lockman**

The amendment under clause 16(2)(a) applies to section 106(4)(f) of the 1970 Act. The amendment clarifies the purposes for which confidential income tax information may be disclosed to the Judgments Officer, a Coroner or a Lockman. These purposes are specified as being for enforcing the collection of income tax or national insurance contributions. The existing information disclosure gateway under section 106(4)(f) does not confirm the purposes for which such income tax information may be shared with these persons.

The amendment under clause 16(2)(b) inserts section 106(5C) to the 1970 Act. The new subsection clarifies that once in possession of information acquired under section 106(4)(f), the Judgments Officer, Coroner or Lockman may use and disclose that information for the purpose of



the performance and discharge of their functions under the AJA without committing an offence under section 106(5A).

Question 28

Do you have any comments on the amendments included in clause 16(2) of the Bill concerning the disclosure of information to the Judgments Officer, a Coroner or a Lockman?

**Disclosure of information to the Chief Registrar**

Clause 16(3) inserts section 106G to the 1970 Act. Section 106G(1) enables information to be disclosed to the Chief Registrar by the Assessor or a person authorised by the Assessor, for the purposes set out in sections 15 to 15E of the AJA (concerning the register) or for the purpose of enabling and assisting the Chief Register in performing and discharging his or her functions under the AJA.

Section 106G(3) prohibits the Chief Registrar from using the information obtained under this information disclosure gateway for any purposes other than those specified.

Question 29

Do you have any comments on the amendments included in clause 16(3) of the Bill concerning the disclosure of information to the Chief Registrar?

**Clause 17 - Preferential Payments and Other Acts (Financial Adjustments) Act 1973 amended**

Clause 17 repeals section 6(2)(e) of the Preferential Payments and Other Acts (Financial Adjustments) Act 1973 (*short title and citation*).

Section 6(2)(e) provides that the 1973 Act shall be construed as one with RoRA. As a consequence of the repeal of RoRA under clause 14 of the Bill, this reference is removed.

Question 30

Do you agree with the repeal of section 6(2)(e) of the Preferential Payments and Other Acts (Financial Adjustments) Act 1973?

**Clause 18 - Customs and Excise Management Act 1986 amended**

Clause 18 amends the [Customs and Excise Management Act 1986](#) ("the 1986 Act") by inserting two new sections to the 1986 Act which deal with information sharing. The new sections inserted do not alter existing information sharing arrangements. The proposed new section 174DA adds a specific provision enabling information disclosure for the purposes of the register and the functions of the Chief Registrar under the AJA. The proposed new section 174DB provides greater transparency and clarity in respect of sharing information with a Coroner or Lockman.

**Disclosure of information to the Chief Registrar**

Clause 18(2) inserts section 174DA into the 1986 Act. Section 174DA(1) enables information to be disclosed to the Chief Registrar by the Treasury, the Collector or an officer (being a person authorised in writing by the Treasury to be an officer of customs and excise) for any purposes set

out in sections 15 to 15E of the AJA (concerning the register) or for the purpose of enabling and assisting the Chief Register in performing and discharging his or her functions under the AJA.

Section 174DA(2) prohibits the Chief Registrar from using the information obtained under this information disclosure gateway for any purposes other than those specified in section 174DA(1).

Question 31

Do you have any comments on the amendments included in clause 18(2) of the Bill concerning the disclosure of information to the Chief Registrar?

**Disclosure of information to Judgments Officer, Coroner or Lockman**

Clause 18(2) also inserts section 174DB into the 1986 Act.

Section 174DB provides a data sharing gateway in respect of the sharing of information by the Treasury, the Collector or an officer (as appropriate) with the Judgments Officer, a Coroner or a Lockman. Section 174DB(1) clarifies that such information may only be shared for the purposes of enforcing the collection of revenues relating to an “assigned matter” (the meaning of an “assigned matter” is found in section 184 of the 1986 Act and broadly relates to duties or functions the Treasury or the Collector is required or empowered to perform under statute relating to customs and excise, VAT or the restriction, prohibition or regulation of the import or export of goods).

Section 174DB(2) clarifies that once in possession of such information, the Judgments Officer, a Coroner or a Lockman may use and disclose that information for the purpose of the performance and discharge of their functions under the AJA.

Question 32

Do you have any comments on the amendments included in clause 18(2) of the Bill concerning the disclosure of information to the Judgments Officer, a Coroner or a Lockman?

**Clause 19 - Administration of Estates Act 1990 amended**

Clause 19 repeals section 32 of the Administration of Estates Act 1990 (*Landlord's arrest*).

This provision enables a personal representative to take out a landlord's arrest for rent due to the deceased if the deceased landlord might have done so if they were alive. This will no longer be relevant with the repeal of the landlord's arrest provisions in RoRA.

Question 33

Do you agree with the repeal of section 32 of the Administration of Estates Act 1990?

**Clause 20 - Debt Recovery and Enforcement Act 2012 amended**

As a consequence of the changes made under clause 4 of the Bill, clause 20 of the Bill repeals section 15 of the Debt Recovery and Enforcement Act 2012 (the “DREA”). Section 15 of the DREA provides that the register established under section 15 of the AJA must indicate the priority of debts in accordance with the current law. The section is not currently in operation. Under the changes made to section 15 of the AJA by clause 4 of the Bill, the register is not connected to the

priority of debts and there is no intention to provide for the priority of debts on the register under the regulations to be made in respect of the register. Clause 4 of the Bill has overtaken the change intended by section 15 of the DREA. As such, section 15 of the DREA is repealed.

Question 34
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Do you agree with the proposal to repeal section 15 of the DREA?
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### **Clause 21 - Equality Act 2017 amended**

Clause 21 of the Bill includes an amendment to section 130 of the Equality Act 2017 to enable the Employment and Equality Tribunal (the "Tribunal") to grant executions with respect to decisions involving the award of a sum of money under that section. The amendment is to rectify a discrepancy in section 130 with respect to the powers the Tribunal currently holds to grant execution under section 159 of the Employment Act 2006.

Section 130 of the Equality Act 2017 is derived from section 159 of the Employment Act 2006 and was intended to replace it. Under section 159 of the Employment Act 2006, the Tribunal is able to grant execution on a decision involving the payment of a sum without the person awarded the sum needing to apply to the court for an execution to enforce the decision. Under section 130 of the Equality Act 2017 the Tribunal does not have the same power to grant execution. A decision or award of the Tribunal for a money sum may be enforced as if it were an order of the Court, meaning the person awarded the sum would have to apply to the court for an execution. The amendments to section 130 of the Equality Act 2017 by clause 21 of the Bill remove this discrepancy.

Section 159 of the Employment Act 2006 is currently still in operation (enabling the Tribunal to grant execution on money awards under that section) under transitional modifications to section 103(2) of the Equality Act 2017. Those transitional modifications will only subsist until section 159 is repealed. It is anticipated that section 159 of the Employment Act 2006 will be repealed when section 130 of the Equality Act 2017 is modified by the Bill.

Question 35
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Do you have any comments on the proposed amendments to the Equality Act 2017 in clause 21 of the Bill?
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### **Clause 22 - Social Security Administration Act 1992 (Application) Order 1994 amended**

Clause 22 amends the Schedule to the Social Security Administration Act 1992 (Application) Order 1994 to insert two new sections to the [Social Security Administration Act 1992](#) as it applies in the Island ("the 1992 Act"). The new sections inserted do not alter existing information sharing arrangements. They are intended to enable the Treasury ("the Department" in the 1992 Act) to provide information to the Chief Registrar, a Judgments Officer, Coroner or Lockman in specified circumstances and are akin to information sharing provisions in clauses 16 and 18 of the Bill.

### **Disclosure of information to the Chief Registrar**

Clause 22(2) inserts section 122DI into the 1992 Act. Section 122DI(1) enables information to be disclosed to the Chief Registrar by the Treasury or an officer of the Treasury for the purposes set out in sections 15 to 15E of the AJA (concerning the register) or for the purpose of enabling and assisting the Chief Register in performing and discharging his or her functions under the AJA.

Section 122DI(2) prohibits the Chief Registrar from using the information obtained under the information disclosure gateway for any purposes other than those specified.

<b>Question 36</b>
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Do you have any comments on the amendments included in clause 22(2) of the Bill concerning the disclosure of information to the Chief Registrar?
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### **Disclosure of information to Judgments Officer, Coroner or Lockman**

Clause 22(2) also inserts section 122DJ into the 1992 Act.

Section 122DJ provides a data sharing gateway in respect of the sharing of information by the Treasury or an officer of the Treasury with the Judgments Officer, a Coroner or a Lockman. Section 122DJ(1) clarifies that such information may only be shared for the purposes of enforcing the recovery of contributions, benefits or budgeting loans.

Section 122DJ(2) clarifies that once in possession of such information, the Judgments Officer, a Coroner or a Lockman may use and disclose that information for the purpose of the performance and discharge of their functions under the AJA.

<b>Question 37</b>
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Do you have any comments on the amendments included in clause 22(2) of the Bill concerning the disclosure of information to the Judgments Officer, a Coroner or a Lockman?
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# The Register Regulations (Proposals)

## Introduction

In accordance with clause 5 of the Bill, the amendments made to the AJA under section 15(4) will provide that the Register must be kept in accordance with Register Regulations. These Regulations are made by the First Deemster and are then laid before Tynwald as a Statutory Document.

The Regulations will provide for how the register will operate and some initial proposals concerning this are contained within this part of the consultation. These proposals have been formulated by the Treasury in consultation with the General Registry and taking into account arrangements underpinning the operation of similar public registers in the UK.

Feedback on these proposals will be made available to the Deemsters for the purpose of the preparation of the Regulations.

## Exemptions

It is the intention that the Regulations will provide a number of exemptions to the inclusion of judgments of the High Court and tribunals in the register.

Judgments that are made by the courts in private settings, such as a family court for example, will be exempt from register entry at all times.

Where judgments are made by the court for the payment of costs only, or for the payment of sums into the court only, these will also be exempt from register entry. It is considered that these sums do not reflect a civil debt that has arisen as a result of the non-payment of a sum that is due and payable by one party to another.

As a general rule, judgments of the High Court and tribunals will be exempt from register entry until execution is granted on the judgment. This approach aims to ensure that a debtor has been given every opportunity to make good the sum of money they owe before details of that debt are entered into the public register.

Default judgments are treated differently to this general rule, as these only arise when a debtor has failed to engage with a creditor or the courts to pay the sum of money they are considered to owe. Default judgments are entered into the existing Register at judgment stage (regardless of whether or not execution is sought at this stage), and it is the intention to retain these arrangements.

<b>Question 38</b>
Do you have any comments on proposed arrangements in respect of exemptions to register entry in respect of High Court and tribunal judgments?

Consideration has been given as to whether details of low value warrants for payment should be exempt from register entry.

This proposal recognises that the entry of details of a debt in the register could have a considerable impact on a registered debtor in terms of their future prospects of being accepted into financial arrangements. When a debt owed is low (for example below £1,000) it is likely that the debtors' means are also low, and arguably these people are the most financially vulnerable in our society. There is a question over whether it is fair or proportionate to add to the burden these vulnerable individuals face, by registering details of their small debt owed to Government in the public register.

In the case of warrants for payment, the creditor is a public authority which arguably does not have the same financial vulnerabilities as an execution creditor of the courts may have in respect of the collection of smaller debts.

Conversely, it could be argued that it is unfair to treat people differently depending on the level of their debt owed to Government. Warrants for payment are only issued at the end of a lengthy and costly process to seek the payment of a sum of money a person is liable to pay; every effort will have been made to engage a person to pay the sum they owe through all viable means, including through payment by instalment. Including a 'cliff edge' de minimis exemption may be considered unfair generally.

#### Question 39

Do you have any comments on including provisions in the Regulations that would exempt details of warrants for payments that are below a specified limit from being included in the register?

#### Question 40

Do you have any views on what the amount owing should be for a warrant for payment to qualify for such an exemption?

#### Question 41

Do you consider that there are any other circumstances in which details in a warrant for payment should be exempt from entry on the register?

### **Operational arrangements**

It is envisioned that the Regulations will provide a number of procedural arrangements in terms of how the register will operate including –

- The Register will only include a limited set of information in respect of a debt (limited to name and address of the debtor, the value of the debt and the date the debt was determined).
- The Chief Registrar will be the single point of contact for all queries arising from registered debtors in the Island in relation to their register entries. This model is considered to be most efficient for registered debtors in the Island.

- Any debt that is fully satisfied within a month of the date of a default judgment, execution or warrant, will be removed from the Register within a short specified timeframe.
- A registered debtor will have a right to apply for the correction of their data in the Register if the particulars recorded are inaccurate.
- In circumstances where the sum of the warrant for payment is reduced by the Assessor or Treasury, the sum of the debt entered into the register will be reduced.
- Where a debt is “annulled” because for example, it has been set aside, reversed or successfully appealed, then the entry in respect of the debt will be cancelled and removed from the register with immediate effect.
- A debt recorded in the register will not be considered as having been paid in full unless the sum owed, plus any Coroner fees arising in respect of the enforcement of the execution, have been paid.
- When a debt has been paid in full, a registered debtor will have a right to apply to the Chief Registrar for written verification of the satisfaction of the debt, as evidence that the debt has been paid.
- When a debt on the register that is not otherwise eligible to be removed or cancelled has been paid in full, the status of that debt must be endorsed in the register to reflect this.
- All entries in respect of a debt will be removed from the Register 6 years after the debt arose.

It is proposed that all entries will be removed from the Register after this period regardless of whether or not the debt in respect of the entry has been paid – this would be consistent with equivalent arrangements for the UK registers of debt.

Question 42
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Do you have any comments on the proposed arrangements for the operation for the register?
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