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ADMINISTRATION OF JUSTICE AND OTHER AMENDMENTS BILL 2020

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Consultation Draft

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ADMINISTRATION OF JUSTICE AND OTHER AMENDMENTS BILL 2020

A **BILL** to amend the Administration of Justice Act 1981 in respect of the register of judgments; to make certain other amendments in the law relating to the disclosure of information for the purposes of the register of judgments and the enforcement of executions; to repeal the Recovery of Rent Act 1954; to amend the Summary Jurisdiction Act 1989 in respect of the register of sums adjudged to be paid on conviction; 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 Administration of Justice and Other Amendments Act 2020.

2 Commencement

(1) This Act (apart from section 1 and this section) comes into operation on such day or days as the Treasury may by order appoint and different days may be appointed for different provisions and for different purposes.

Tynwald procedure – laying only.

(2) An order under subsection (1) may include such consequential, incidental, supplemental, transitional, transitory or saving provisions as the Treasury considers necessary or expedient in connection with the coming into operation of any provision of this Act.

PART 2 – AMENDMENT OF THE ADMINISTRATION OF JUSTICE ACT 1981

3 Amendment of the Administration of Justice Act 1981

- (1) The *Administration of Justice Act 1981* is amended in accordance with this Part.
- (2) A reference in this Part, without more, to a numbered section or Schedule is a reference to the section of, or Schedule to, the *Administration of Justice Act 1981* so numbered.

4 Amendment of section 12 (priorities)

In section 12 (priorities), for “in the order of priorities applying at the commencement of this Act” substitute «in accordance with the *Debtors Act 1820* and the *Preferential Payments Act 1908*».

5 Substitution of section 15 (register of judgments)

For section 15 (register of judgments), substitute –

«15 Register of judgments etc.

- (1) The Chief Registrar must keep a register (the “**register**”) of –
 - (a) judgments entered in the High Court;
 - (b) judgments of a tribunal referred to in Schedule 2 to the *Tribunals Act 2006*; and
 - (c) warrants for payment,
 on or under which a sum of money, other than a sum payable under section 1 of the *Collection of Fines etc. Act 1985*, is payable.
- (2) The register must be kept by the Chief Registrar in accordance with regulations made by the Deemsters (the “**register regulations**”).
Tynwald procedure – negative.
- (3) Before making the register regulations under subsection (2), the Deemsters must consult such persons as they consider appropriate.
- (4) The register regulations must make provision in relation to –
 - (a) the particulars relating to a judgment or warrant for payment which must be recorded on the register;
 - (b) the judgments or warrants for payment (or classes of them) which are exempt from registration;

- (c) the circumstances in which judgments or warrants for payment are exempt from registration; and
 - (d) the circumstances in which an entry on the register must or may be amended or cancelled.
- (5) The register regulations may make such other provision as the Deemsters consider appropriate in relation to the register, including—
- (a) the procedures relating to the recording and amendment of information on, and the removal of information from, the register;
 - (b) the searching of the register and access to information on the register;
 - (c) the circumstances in which access to information on the register may be refused or restricted; and
 - (d) the exercise of a discretion by any person in respect of any matters specified in the register regulations.
- (6) In this section, a “judgment” in relation to the High Court or a tribunal means any judgment, order, decision or award of the High Court or tribunal (however termed) which is —
- (a) a final determination of those proceedings or of an issue in those proceedings; or
 - (b) made in relation to such a final determination.
- (7) The Treasury may by order —
- (a) amend subsection (1) to add, remove or amend the classes of decision which must be included on the register; and
 - (b) amend subsection (6) in consequence of any such amendment.
- Tynwald procedure – approval required.

15A Provision of data to the Chief Registrar

- (1) The Assessor and the Treasury (as appropriate) must provide the Chief Registrar with the particulars specified in the register regulations of the warrants for payment which are required to be entered on the register and which are in the Assessor’s or the Treasury’s control, for the purpose of —
- (a) the keeping of the register; and
 - (b) the publishing of the register under section 15B(2).
- (2) The clerk of the relevant tribunal must provide the Chief Registrar with the particulars specified in the register regulations of the judgments which are required to be entered on the register and which are under the clerk’s control, for the purpose of —

- (a) the keeping of the register; and
 - (b) the publishing of the register under section 15B(2).
- (3) No statutory provision or rule of law prohibiting or restricting the disclosure of information shall preclude the Assessor, the Treasury or the clerk of a tribunal from providing the Chief Registrar with the information referred to in subsections (1) and (2).
- (4) In this section, “judgment” has the same meaning as in section 15(6).

15B Keeping and publication of the register by the Chief Registrar

- (1) The Chief Registrar may, subject to section 15, keep the register in such form and manner and at such place as the Chief Registrar thinks fit.
- (2) The Chief Registrar must publish the information recorded on the register.
- (3) In subsection (2), the duty to publish the information recorded on the register means to publish it, or arrange for it to be published, in such form or manner as the Chief Registrar considers appropriate (including in electronic form) for inspection by members of the public.
- (4) The Chief Registrar may enter into arrangements with another person for the publishing of the information recorded on the register and such arrangements may include provision for a charge to be made for –
- (a) access to information on the register; or
 - (b) supplying a certified copy of information in an entry on the register.

15C Fees

- (1) The Treasury may by order specify –
- (a) the fees to be paid for the provision of access to information on the register;
 - (b) the fees to be paid for supplying a certified copy of information in an entry on the register; or
 - (c) any other fee or charge payable in respect of any other function of, or service by, the Chief Registrar in relation to the register.
- Tynwald procedure – negative.

- (2) An order may not be made under subsection (1)(a) or (b) when the functions described under those provisions are being performed by another person under arrangements entered into by the Chief Registrar for publishing information recorded on the register under section 15B(2) to (4).
- (3) Any fees received under this section must be applied to pay the expenses incurred in keeping and publishing the register, with any surplus being paid into the General Revenue.

15D Data protection legislation not affected

Nothing in sections 15 to 15C authorises a disclosure, in contravention of the data protection legislation, of personal data which is not exempt from those provisions.

15E Registration of warrants for payment: transitional provisions

A warrant for payment can be entered on the register only if the warrant for payment is issued —

- (a) after the coming into operation of this section; and
- (b) for of a sum of money in respect of which the person liable to pay that sum was first notified in writing after the coming into operation of this section.».

6 Amendment of section 26 (interpretation)

In section 26(1) (interpretation) —

- (a) after the definition of “arrest” insert —

«“**data protection legislation**” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018¹ as they have effect from time to time;»;

- (b) for the definition of “execution”, substitute —

«“**execution**” means —

- (a) an execution of the High Court under which money is payable by an execution debtor to an execution creditor;
- (b) an execution granted under section 4 of the *Collection of Fines etc. Act 1985*;
- (c) an execution granted under section 93 of the *Proceeds of Crime Act 2008*;
- (d) an execution granted by a tribunal;

¹ SD 2018/0145

- (e) a judgment, order, decision or award of a tribunal which may be enforced by a Coroner as if it was an execution issued by the High Court;
 - (f) a warrant for payment; or
 - (g) an execution granted by a court of summary jurisdiction under section 94(1) of the *Summary Jurisdiction Act 1989*;»;
and
- (c) after the definition of “prescribed”, insert —
- «**“register”**, unless the context otherwise requires, has the meaning given in section 15(1);
- “register regulations”** has the meaning given in section 15(2);
- “warrant for payment”** means a warrant issued under —
- (a) section 98A of the *Income Tax Act 1970* (distrainment for overdue tax);
 - (b) section 114A, 114AA or 114AB of the *Social Security Administration Act 1992* (of Parliament) as it has effect in the Island (recovery of outstanding contributions, benefit and budgeting loans);
 - (c) paragraph 6 of Schedule 12 to the *Value Added Tax Act 1996* (distrainment for overdue VAT); or
 - (d) section 24 of the *Gambling Duty Act 2012* (Treasury warrants).».

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

- (1) In paragraph 3 of Schedule 1 (arrest and sale of goods, etc.), omit the words “, but, where the execution debtor resides on premises” onwards.
- (2) After paragraph 3 of Schedule 1 insert —
- «3A. Despite paragraph 3, and save as is otherwise provided by enforcement rules, where before the coming into operation of section 7(1) of the *Administration of Justice and Other Amendments Act 2020* (which amended paragraph 3) (“section 7(1)”) an execution order has been granted and —
- (a) the enforcement of the execution order is made in respect of an execution debtor who resides at premises of which he or she —
 - (i) is a tenant; and
 - (ii) was a tenant before the coming into operation of section 7(1); and
 - (b) that execution order does not relate to rent due by him or her as such tenant,

the apparent value of the property of the execution debtor which may be arrested by a Coroner under paragraph 1 shall not exceed twice the amount recoverable under the judgment but there shall be exempted from such arrest, in addition to the property specified in paragraph 2(a) to (d), such other property of the execution debtor as will, when taken together with the apparent value of the other assets of the execution debtor (other than the property mentioned in paragraph 2(a) to (d)), amount in apparent value to not less than the amount required to pay that rent for one year.».

PART 3 – AMENDMENT OF THE SUMMARY JURISDICTION ACT 1989

8 Amendment of the Summary Jurisdiction Act 1989

The *Summary Jurisdiction Act 1989* is amended in accordance with this Part.

9 Substitution of section 101A (register of sums adjudged to be paid on conviction)

For section 101A of the *Summary Jurisdiction Act 1989* (register of sums adjudged to be paid on conviction), substitute —

«101A Register of sums adjudged to be paid on conviction

- (1) The Chief Registrar must keep a register of sums to be paid to the Chief Registrar under section 1 of the *Collection of Fines etc. Act 1985* and the names and addresses of persons who have defaulted in their payment (in this section and section 101B, “the register”).
- (2) The register must be kept in accordance with rules of court.
- (3) The rules must —
 - (a) prescribe the particulars relating to each sum which must be recorded on the register;
 - (b) make provision in relation to the sums (or classes of them) which are exempt from registration;
 - (c) make provision in relation to the circumstances in which sums are exempt from registration; and
 - (d) provide for the circumstances in which an entry on the register must or may be amended or cancelled.
- (4) The rules may make such other provision as the Clerk of the Rolls considers appropriate in relation to the register, including —

- (a) the procedures relating to the recording and amendment of information on, and the removal of information from, the register;
 - (b) the searching of the register and access to information on the register;
 - (c) the circumstances in which access to the register may be refused or restricted; and
 - (d) the exercise of a discretion by any person in respect of any matters specified in the rules.
- (5) The Chief Registrar may keep the register in such form and manner and at such place as the Chief Registrar thinks fit.
- (6) The Chief Registrar must publish the information recorded on the register.
- (7) In subsection (6), the duty to publish the information recorded on the register means to publish it, or arrange for it to be published, in such form or manner as the Chief Registrar considers appropriate (including in electronic form) for inspection by members of the public.
- (8) The Chief Registrar may enter into arrangements with another person for the publishing of the information recorded on the register and such arrangements may include provision for a charge to be made for —
- (a) access to information on the register; or
 - (b) supplying a certified copy of information in an entry on the register.

101B Register fees

- (1) The Treasury may by order specify —
- (a) the fees to be paid for the provision of access to information on the register;
 - (b) the fees to be paid for supplying a certified copy of information in an entry on the register; or
 - (c) any other fee or charge payable in respect of any other function of, or service by, the Chief Registrar in relation to the register.
- Tynwald procedure – negative.
- (2) An order may not be made under subsection (1)(a) or (b) when the functions described under those provisions are being performed by another person under arrangements entered into by the Chief Registrar for publishing information recorded on the register under section 101A(6) to (8).

- (3) Any fees received under this section must be applied to pay the expenses incurred in keeping and publishing the register, with any surplus being paid into the General Revenue.

101C Data protection legislation not affected

- (1) Nothing in sections 101A and 101B authorises a disclosure, in contravention of the data protection legislation, of personal data which is not exempt from those provisions.
- (2) In this section, “data protection legislation” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018² as they have effect from time to time.».

PART 4 – CONSEQUENTIAL AMENDMENTS AND REPEALS

DIVISION 1 – ACTS OF TYNWALD

10 Bankruptcy Code 1892 amended

- (1) The *Bankruptcy Code 1892* is amended as follows.
- (2) Section 25 (power to landlord to distrain for rent) is repealed.

11 Preferential Payments Act 1908 amended

- (1) The *Preferential Payments Act 1908* is amended as follows.
- (2) Section 6(a) (savings) is repealed.

12 Conveyancing (Leases and Tenancies) Act 1954 amended

- (1) The *Conveyancing (Leases and Tenancies) Act 1954* is amended as follows.
- (2) For section 1(2) (short title and construction) substitute –
- «(2) This Act shall be construed as one with the *Landlord and Tenant Act, 1954*, and the *Tenancies (Implied Terms) Act, 1954*, and such Acts and this Act may be together cited as the *Landlord and Tenant Acts, 1954*.».

13 Landlord and Tenant Act 1954 amended

- (1) The *Landlord and Tenant Act 1954* is amended as follows.
- (2) For section 1(2) (short title and construction) substitute –
- «(2) This Act shall be construed as one with the *Conveyancing (Leases and Tenancies) Act, 1954*, and the *Tenancies (Implied Terms) Act,*

² SD 2018/0145

1954, and such Acts and this Act may be together cited as the Landlord and Tenant Acts, 1954.».

- (3) In section 12 (recovery of deserted property) —
- (a) omit “and leaving upon such property insufficient goods to discharge such arrears of rent,”; and
- (b) for “and the coroner shall seize and appraise any goods found upon the property, and thereafter proceed in respect of the same as if such goods had been seized under a landlord’s arrest”, substitute —

«and the court may make such order as it thinks fit in respect of any goods found upon the property.»

14 **Recovery of Rent Act 1954 repealed**

The *Recovery of Rent Act 1954* is repealed.

15 **Tenancies (Implied Terms) Act 1954 amended**

- (1) The *Tenancies (Implied Terms) Act 1954* is amended as follows.

- (2) For section 1(2) (short title and construction) substitute —

«(2) This Act shall be construed as one with the *Landlord and Tenant Act, 1954*, and the *Conveyancing (Leases and Tenancies) Act, 1954*, and such Acts and this Act may be together cited as the Landlord and Tenant Acts, 1954.».

16 **Income Tax Act 1970 amended**

- (1) The *Income Tax Act 1970* is amended as follows.

- (2) In section 106 (information confidential) —

(a) In subsection (4)(f), after “Coroner or Lockman” insert «for the purpose of enforcing the collection of income tax or national insurance contributions (including interest and penalties in respect of the same)»;

(b) After subsection (5B) insert —

«(5C) To avoid doubt, the use or disclosure by the Judgments Officer, a Coroner or a Lockman of any information that has been provided under subsection (4)(f) does not contravene subsection (5A) if the use or disclosure is for the purpose of the performance or discharge of any of the Judgments Officer’s, Coroner’s or Lockman’s functions under the *Administration of Justice Act 1981* including the enforcement of any other executions (as that term is defined in that Act).».

- (3) After section 106F (Disclosure of information between the Assessor and the Department of Education, Sport and Culture) insert —

«106G Disclosure of information to the Chief Registrar

- (1) No restriction on the disclosure of information imposed by any Manx legislation (including this Act) or otherwise, prevents the Assessor or an officer authorised by the Assessor from disclosing any information to the Chief Registrar for —
- (a) the purposes set out in sections 15 to 15E of the *Administration of Justice Act 1981*; or
- (b) the purpose of enabling or assisting the Chief Registrar to perform or discharge any of the functions of the Chief Registrar under the *Administration of Justice Act 1981*.
- (2) Any person who discloses information pursuant to subsection (1) shall not be guilty of an offence under section 106(3).
- (3) Information obtained under subsection (1) must not be disclosed except for a purpose mentioned in that subsection.
- (4) Nothing in this section shall be taken to prejudice any power to disclose information which exists apart from this section.».

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

Section 6(2)(e) of the *Preferential Payments and Other Acts (Financial Adjustments) Act 1973* (short title and citation) is repealed.

18 Customs and Excise Management Act 1986 amended

- (1) The *Customs and Excise Management Act 1986* is amended as follows.
- (2) After section 174D (matters supplementary to ss 174B and 174C) insert —

«174DA Disclosure of information to the Chief Registrar

- (1) No obligation of secrecy imposed by any Manx legislation (including this Act) or otherwise, prevents the Treasury, the Collector or an officer (as appropriate) from disclosing any information to the Chief Registrar for —
- (a) the purposes set out in sections 15 to 15E of the *Administration of Justice Act 1981*; or
- (b) the purpose of enabling or assisting the Chief Registrar to perform or discharge any of the functions of the Chief Registrar under the *Administration of Justice Act 1981*.

- (2) Information obtained under subsection (1) must not be disclosed except for a purpose mentioned in that subsection.
- (3) Nothing in this section shall be taken to prejudice any power to disclose information which exists apart from this section.

174DB Disclosure of information to Judgments Officer, Coroner or Lockman

- (1) No obligation of secrecy imposed by any Manx legislation (including this Act) or otherwise, prevents the Treasury, the Collector or an officer (as appropriate) from disclosing any information to the Judgments Officer, a Coroner or a Lockman for the purpose of enforcing the collection of revenues relating to an assigned matter (including interest and penalties in respect of the same).
- (2) Any information obtained by means of a disclosure under subsection (1) may be used or disclosed by the Judgments Officer, a Coroner or a Lockman for the purpose of the performance or discharge of any of his or her functions under the *Administration of Justice Act 1981* including the enforcement of any other executions (as that term is defined in that Act).
- (3) Nothing in this section shall be taken to prejudice any power to disclose information which exists apart from this section.».

19 Administration of Estates Act 1990 amended

Section 32 of the *Administration of Estates Act 1990* (landlord's arrest) is repealed.

20 Debt Recovery and Enforcement Act 2012 amended

Section 15 of the *Debt Recovery and Enforcement Act 2012* (priority of debts) is repealed.

21 Equality Act 2017 amended

In section 130 of the *Equality Act 2017* (enforcement of awards etc. of Tribunal) —

- (a) in subsection (1), for “then, subject to subsection (2), the decision, order or award may be enforced as if it were an order of the Court” substitute —

«the Tribunal may grant execution for the sum or the amount of the award, as the case requires and such execution shall be enforceable in the same manner as an execution of the High Court»;

- (b) after subsection (1) insert —

- «(1A) This section does not apply to a complaint to which section 105 (jurisdiction of the Tribunal in relation to goods and services) applies.»; and
- (c) Section 130(2) is repealed.

DIVISION 2 – SECONDARY LEGISLATION

22 Social Security Administration Act 1992 (Application) Order 1994 amended

- (1) The Schedule to the Social Security Administration Act 1992 (Application) Order 1994³ is amended as follows.
- (2) After the entry relating to section 122DH (sections 122DF and 122DG: interpretation) insert –

«122DI Disclosure of information by the Department to the Chief Registrar

- (1) Despite any other restriction on the disclosure of information imposed by any Manx legislation (including this Act) or otherwise, the Department, or an officer of the Department, may disclose any information to the Chief Registrar for –
- (a) the purposes set out in sections 15 to 15E of the *Administration of Justice Act 1981*; or
- (b) the purpose of enabling or assisting the Chief Registrar to perform and discharge any of the functions of the Chief Registrar under the *Administration of Justice Act 1981*.
- (2) Information obtained under subsection (1) must not be disclosed except for a purpose mentioned in that subsection.
- (3) This section does not limit the circumstances in which information may be disclosed apart from this section.

122DJ Disclosure of information by the Department to the Judgments Officer, Coroner or a Lockman

- (1) Despite any other restriction on the disclosure of information imposed by any Manx legislation (including this Act) or otherwise, the Department, or an officer of the Department, may disclose any information to the Judgments Officer, a Coroner or a lockman for the purpose of enforcing the recovery of contributions, benefits or budgeting loans (including interest and penalties in respect of the same).

³ SD 506/94

- (2) Any information obtained under subsection (1) may be used or disclosed by the Judgments officer, a Coroner or a lockman for the purpose of the performance or discharge of any of his or her functions under the *Administration of Justice Act 1981* including the enforcement of any other executions (as that term is defined in that Act).
- (3) This section does not limit the circumstances in which information may be disclosed apart from this section.».

Consultation Draft