



Isle of Man
Government

Reiltys Ellan Vannin



Consultation Response Document

**COLLECTION OF CIVIL DEBT (PHASE 1)
POLICY PROPOSALS**

The Treasury

1. Introduction

- 1.1 The consultation on the Collection of Civil Debt (Phase 1) policy proposals was issued by the Treasury on 20th November 2017 with responses requested by 5th January 2018.
- 1.2 This was an initial consultation intended to gain the views of the public and interested stakeholders on a number of key overarching policy proposals.
- 1.3 The Phase 1 proposals concentrated on reviewing and improving the underlying framework of how debts are recorded and made accessible. Options were also outlined in areas that effect how debts are then recovered by the coroners.
- 1.4 The Treasury has reviewed the feedback and responses are included against each policy option within section 3.

2. Consultation process

- 2.1 The consultation document was published on the Government's website. The consultation attracted 15 responses which are listed in full at [Appendix A](#). A full list of respondents is also included at [Appendix B](#). For completion, the consultation document is also attached for reference at [Appendix C](#).

3. Summary of Feedback and Treasury response

OPTION 1 - Register of executions

Questions were asked regarding the potential benefits and implications of introducing a revised register and whether certain debts pursued by the Treasury should be included.

Summary of Feedback

- Most respondents recognised the benefits of a revised register of executions which provides a more accessible, better populated and fully up to date means of assessing the financial position of any Isle of Man business or individual.
- The inclusion of a wider set of data from all Default Judgments, Orders and Fines was largely endorsed which would also include warrants raised by the Treasury in respect of monies owed across a number of areas such as ITIP,NI, VAT and social security payments.
- The decision reached regarding the inclusion of Treasury warrants is covered in more detail under option 2.

Options for a revised register

- 3.1 Registry Trust Limited (RTL), who are a not for profit organisation based in the UK, was identified as a possible third party who could provide the required revised register functionality. Amongst its various roles, RTL operates a service called Trust Online. This offers a fully searchable electronic register of Judgments, Orders and Fines in England and Wales (and offers affiliation for other jurisdictions such as the IoM).
- 3.2 Outsourcing the recording and maintenance of data to a third party was seen as beneficial given it would provide a "one stop", always available, electronic point of access. This also provides benefits for the coroners in being able to access details of debtors across different Sheadings and enables further options regarding the future structure and duties of the coroners to be explored within phase 2 of the civil debt reform process.
- 3.3 The General Registry has an existing contract with RTL to publish limited data relating to some Court executions and it was seen as potentially cost effective to extend this to include all data identified for inclusion within the revised register.
- 3.4 Using a UK agent would also ensure data can be shared more widely with credit reference agencies. This may not prove viable without the agreement with RTL.
- 3.5 The possibility that this could impinge on individual rights was raised as concern. It is accepted that extending the data available online through a revised register provides wider access. This information is however produced as a result of Court process or in the case of Treasury warrants, based on statute. It should also be noted that such actions are only instigated following the inability of a creditor to secure payment for a recognised debt. In those circumstances it appears equitable that anyone intending to enter into a financial transaction has the opportunity to fully review any relevant existing and past debts for the approved statutory period.
- 3.6 Whilst data protection concerns were also highlighted, the Treasury is assured that compliance with both current and future data protection legislation is, and will continue to be, a key part of the service offered by RTL.
- 3.7 Other options for commissioning a separate IoM Government online database were also considered although the potential costs of developing and maintaining such a separate register appear prohibitive and largely unnecessary.
- 3.8 The Treasury is, however, aware of the intentions of the Central Registry Bill currently being progressed by the Department for Enterprise (DfE). This Bill provides for the creation of a central registry dealing with the registry and public records functions of the General Registry. It follows up an internal restructuring process in 2015 and seeks to put the existing delegated function from the General Registry to DfE in terms of the transfer of the Land, Deeds and Probate, Civil Registries, Charities Register and the Public Records Office on a statutory basis.

- 3.9 Whilst at present, this is not intended to impact on the remaining functions of the General Registry regarding the Courts and Tribunals service, it is recognised that there may be some future capacity for expanding the registers held centrally on Island.
- 3.10 Although other third party solutions may be available, none would appear to offer the existing benefits of RTL such as: Providing a single point of search across all England and Wales; ensuring data is available to all key credit reference agencies; having no upfront development or ongoing maintenance costs; ensuring compliance with all relevant data protection laws and; providing confidence through the many years of online experience in processing, managing, amending and the publication of this class of data.
- 3.11 Proposals in the draft Bill will, however, enable the revised register to be contracted to any identified third party with the agreement of the Chief Registrar and the Treasury. This will also allow for the register to be maintained internally within Government should circumstances alter in the future.

Cost of access

- 3.12 Those questioning a move away from the current arrangements for free hard copy access cited the introduction of a new cost to access data.
- 3.13 It is accepted that a revised register administered by a third party introduces a cost for access not previously applied in all cases. This must however be viewed against the increased breadth of data available, ease of access and the need to improve the current paper based arrangements for default judgments. The cost to business in time to attend and physically view the existing hard copy register should perhaps also be weighed against the cost of accessing data electronically.
- 3.14 Options regarding digitising registers within Government have been explored within 3.7 – 3.11 and in such circumstances it could be argued that access costs could be reduced. Charges are, however, already made for accessing data from IoM Government maintained registers, for example the IoM Companies Registry charges individual fees for purchasing documents up to a combined maximum of £15. Similar fees would therefore need to be considered for accessing data through an online IoM register should this provide a cost effective alternative in the future.
- 3.15 The Treasury has carefully considered all options and has concluded that outsourcing the revised register to RTL appears to offer the simplest and most cost effective solution for all parties at the current time, subject to further satisfactory contract negotiations.

Digital exclusion

- 3.16 Some respondents queried whether not providing hard copy data would restrict access.
- 3.17 The Treasury notes this concern, but remains committed to modernising the existing register arrangements through extending the data available and moving to a fully online platform.

- 3.18 Digital exclusion is considered a key issue in terms of Government's digital strategy www.gov.im/digitalstrategy. The Treasury believes that safeguards made within this strategy ensure that digitising data does not exclude anyone. Online access is available free of charge at a number of locations, for example, terminals with internet access are available at the welcome centre - www.gov.im/categories/leisure-and-entertainment/isle-of-man-welcome-centre.
- 3.19 Therefore, although it is proposed to stop producing the current limited data hard copy register, it is considered that this does not exclude or disadvantage any IoM citizens from accessing data which will be more complete, accurate and secure.
- 3.20 A communications programme will accompany the proposed changes to highlight points of access and identify links to the relevant RTL site within the IoM Government website.

OPTION 1 - Summary of the Treasury response

- The Treasury acknowledges that moving to a fully online register of executions will introduce an additional cost to access elements of data currently available free of charge in hard copy at the General Registry (although the existing data is not complete and by nature will not be up to date).
- Costs must be balanced against the wider benefits offered and the need to modernise and future proof access.
- Registry Trust Limited has been identified as the preferred option to meet future needs for a fully inclusive, cost effective, secure online register. The Treasury will therefore seek to retain and expand on current arrangements regarding the maintenance and publication of appropriate data.
- The existing hard copy register will be discontinued.
- Concerns over possible digital exclusion are recognised, but the Treasury believes that adequate opportunity for online access is currently available across the Island.
- The Treasury accepts that to ensure full transparency, warrants issued for monies owed to the Department, outside of the Court process, should also be included on the revised register.

OPTION 2 - Crown Preference

Questions were asked regarding the creditor preference currently applied to certain debts pursued by the Treasury known as "Crown" debts.

Summary of Feedback

- The majority of responses supported amending the preference applied to Crown debt in some format. A number of suggestions were made outlining options for removing the preference in full or to limit the extent to which the preference is applied.
- Respondents further recognised that creating a level playing field based on full transparency of all executable debts (including those created by Treasury warrant) would provide a fairer system which would aid businesses and individuals.
- It was also acknowledged that Government has to take all appropriate action to recover monies owed through direct and indirect taxation in order that public services can be maintained.

- 3.21 The Treasury issues warrants, separate to the Courts, to recover certain debts. These warrants are not recorded on the existing Register of Executions and are currently passed directly to coroners and are not visible to other creditors. These Treasury warrants (classed as Crown debts) have priority over other non-preferred creditors.
- 3.22 The application of Crown preference for these debts is historic and is based on certain underlying policy principles such as taxing authorities being involuntary creditors (having no choice over the debt or having the ability to obtain other security). Consideration must also be given to the need for Government to collect all due taxes in order to meet statutory obligations to provide public services.
- 3.23 Alternatively, having this preference in place may be seen as restricting the ability for other creditors to recover debts which may in turn have an adverse effect on the local economy through loss of businesses and jobs.
- 3.24 A number of respondents believed no change should be made to the existing Crown preference, but did not provide any further evidence to support that opinion.
- 3.25 A similar number supported both removing the preference in entirety and also limiting the level or scope of the preference.
- 3.26 The possibility of a potential reduction in taxation receipts has been assessed, but balanced against the wider perceived economic benefits. As part of the overall civil debt reform process, the Treasury is also reviewing and seeking to implement improvements to Government's internal processes surrounding debt recovery. These actions are intended to help mitigate any potential impact.

- 3.27 Suggestions were also made to limit the scope of Crown preference rather than remove it entirely. For example, considering individual circumstances regarding each execution granted, or combining debts.
- 3.28 Whilst some of these suggestions have merit, they present wide reaching legal implications and would create additional cost and bureaucracy.
- 3.29 Considering all feedback, potential impact and planned mitigating actions, the Treasury therefore proposes to completely remove Crown preference as it applies to all Treasury warrants. This will also enable warrants raised to be included on the revised register and become visible to anyone undertaking a search.

OPTION 2 - Summary of the Treasury response

- The Treasury accepts that the current system, whereby certain debts created through warrants are undisclosed to the public and have priority over other executable debts, could be seen as unfair.
- Whilst options for limiting preference have been considered, the Treasury believes that removing preference in relation to Treasury warrants entirely is the simplest, fairest and most cost effective option.
- Transitional arrangements will be needed to cover Treasury warrants already held by coroners when changes are introduced.
- Other preferences applied within the Preferential Payments Act 1908 (PPA) will remain in place. These will be explored further within phase 3 (insolvency) as part of the overall approach to the reform of civil debt collection.

OPTION 3 – The Recovery of Rent Act 1954

Questions were asked as to whether preferential creditor treatment for landlords should be retained, limited or removed and what implications were envisaged under the chosen option.

Summary of Feedback

- Responses to this option were mixed and fairly evenly split in relation to retaining or limiting the preference and removing it in its entirety.
- Respondents queried why rent owed to landlords should be prioritised ahead of other debts.
- Other respondents noted that removing the preference may adversely affect private investment in the housing market which may lead to more and earlier evictions and a reduction in the willingness to let to some tenants. In turn, this could create a higher dependence and pressure on Government through increased social security benefits and more demand for Local Authority housing.

- 3.30 Currently, a tenant with an execution against them must be left with sufficient funds to meet their current contracted rental costs for up to 12 months before the debt can be recovered.
- 3.31 A variety of opinions were expressed as to whether any changes should be made.
- 3.32 In reviewing the comments put forward in seeking retention or further limitation of the preference, the Treasury was mindful that no empirical evidence was provided in support. For example, if further limitations were to be applied such as restricting the period from 12 months' rent to 6 months, or a monetary cap applied, this would be purely arbitrary and have no base data in support.
- 3.33 Reasons provided for retaining the preference in terms of securing investment in the sector could perhaps equally be applied to introducing new preferences for other groups of creditor within other sectors.
- 3.34 Retaining or amending any preferences, as opposed to removing them in entirety, would also act against the overarching policy principles outlined of ensuring transparency and equity for all creditors. This is further supported by the intention to publicise and remove existing preference for Crown debts under option 2.
- 3.35 Given the above, the Treasury is therefore proposing to entirely remove the preference applied to contracted rental payments. This would mean amending or repealing the Recovery of Rent Act 1954 as appropriate. Debts owed by tenants could then be recovered without any restrictions.

- 3.36 Other creditor preferences applied within the PPA will be reviewed as part of phase 3 (insolvency) of the overall reform proposals. This has no definitive timetable as yet, but will follow a second coroner reform Bill under phase 2 planned for completion in 2019/20.
- 3.37 If any unintended consequences are apparent as a result of removing the preference for landlords, this can be considered for further action as part of the PPA review.

OPTION 3 - Summary of the Treasury response

- The Treasury notes that there is no obvious majority response to the options outlined. Comments made support all alternatives for removing, further limiting or retaining the existing preference.
- However, no substantive evidence was provided in support of retaining or limiting the preference.
- Given the underlying policy principles behind reforming the collection of civil debt, it is therefore proposed that the preference be removed in entirety.
- All the provisions within The Recovery of Rent Act 1954 will be reviewed as part of the drafting process for the revising Bill. Some transitional arrangements may be considered appropriate.

4. Next Steps

4.1 The Treasury will now progress a draft Bill which will:

- Enable a revised register of executions to be held electronically. Provisions will allow the register to either be held by the Chief Registrar or on behalf of the Chief Registrar by an approved third party. The requirement for retaining a hard copy register will be removed;
- Provide for additional information to be included such as Orders and Fines imposed by the IoM Courts;
- Provide for debts raised by the Treasury via warrant to be included on the revised register;
- Remove preferential status for Crown debts provided under the Preferential Payments Act 1908;
- Remove preferential status for rent contractually owed to landlords provided under the Recovery of Rent Act 1954;
- Consider transitional arrangements for existing executions across all affected areas.

4.2 Once a draft Bill is available, it will be subject to further full public consultation with the intention of introducing a final Bill into the Legislative Branches during the current 2017/18 parliamentary session.

4.3 This Bill represents phase 1 of a 3 phased approach to reform all relevant underlying legislation, organisational frameworks and procedures relating to the collection of civil debt.

4.4 Following the progression of this initial phase 1 Bill, the Treasury will further outline options for reviewing the current coroner structure. This second phase will seek to address the concerns that have long been evident about the effectiveness of current enforcement provisions. All the reviews undertaken into the role of the coroners in enforcement have outlined that collecting monies can be difficult whether it be from individuals or corporate bodies. Work here will therefore consider the scope of the coroners' duties and whether additional powers could be provided. A similar approach will be undertaken to gather views and subsequently bring forward an amending Bill if appropriate.

4.5 The third phase will consider options for reviewing the current insolvency framework and all related legislation. The timing of this work will be dependent on the outcome of the preceding phases.

Appendix A Comments received on each question:

Please note that some of the respondents to this consultation requested that their feedback either be published anonymously or not at all. In keeping with these requests, this document will detail only 12 of the 15 responses received by the Treasury, and 10 of those 12 are anonymous.

Option 1 – Register of Executions.	
1. Do you agree that a revised register as outlined would be beneficial and, if so, how?	
Response from	Do you agree with proposal? / comments made
Ean Costain	Yes. It is important in the current information age that data on companies, or individuals with judgements against them is easily accessible to all.
Mr Lewin	Yes.
ANON-UAXP-AKSK-8	No. Closing existing register excludes those without internet access. Currently free and in future will be charged. Costs will increase they never go down. This is being done for benefit of banks and credit reference agencies - why should a person's debts be publicised worldwide online..? Seems the opposite of data protection it is data publication.
ANON-UAXP-AKSU-J	Yes. More transparency is vital we need to be able to find out with ease as we for example are a company that gives only short term credit i.e. a day or so at the most due to the nature of the product we sell is combustible and non-returnable. We need to be able to make credit checks with out to much cost are we able to buy a list for a certain period maybe?
ANON-UAXP-AKS9-P	Yes. Better access, with the individuals consent, will enable lenders to make better informed decisions which ultimately would lead to fewer debts where the borrower is unable to meet their commitments.
ANON-UAXP-AKSX-N	<p>Yes. The register should absolutely be made more publically accessible.</p> <p>For too long, unscrupulous debtors have been able to hide their debts from unsuspecting parties.</p> <p>In the early 1990's this information used to be published in IOM Newspapers. It named & shamed offenders.</p> <p>This would allow those seeking to enter into some form of credit arrangement to search to see if the other party has any judgments against them already for example Landlords can search on prospective tenants, businesses can consider new customers before offering them a line of credit etc.</p> <p>It would also allow the public to search more freely when choosing a tradesman as they will be able to see if they have been taken to court and what for.</p>

ANON-UAXP- AKG3-4	Yes. It would hopefully be easier to access and give a fuller indication as to a person's/company's financial position which may prevent credit being obtained by persons who are already in debt, which in turn leads to further debt and more work for the Courts administration.
ANON-UAXP- AKGV-7	Yes. A revised register, if accessible, would reduce down the burden on the courts as it would allow checking for existing judgement prior to granting credit. We have initiated 37 small claims procedures this year, of which most defendants already had judgments against them. If we had been able to check we would not have extended credit to them.
ANON-UAXP- AKGG-R	Yes. An opportunity to assess risk when talking to new tenants, individual or corporate, and as a properly formulated record of persons and organisations who have been through a legal process and the evidence is there to be seen.
ANON-UAXP- AKG4-5	Yes. Lack of visibility of credit worthiness of potential customers.
ANON-UAXP- AKGC-M	Yes. All debts and judgements would at long last be fully available; especially Treasury Warrants This would be a major step forward and well overdue! It will give businesses the opportunity to fully assess the risk factors of supplying and giving credit to new customers.
BHLF-UAXP- AKGD-N	Yes. Yes, we agree that a revised register as outlined would be beneficial. To be able to access any information concerning 'parties' that trade with you has to be beneficial and will influence your decision.
Option 1 – Register of Executions.	
2. Do you envisage any practical implications with the proposed arrangements for the revised register (costs, digital exclusion etc.)?	
Response from	Do you agree with proposal? / comments made
Ean Costain	Just bureaucracy.

Mr Lewin	No.
ANON-UAXP-AKSK-8	Yes Costs Digital exclusion No right to be forgotten - will be recorded on the internet forever Why do we have increased no's of civil servants and then charging members of public to Get a private company to do the civil servants job.
ANON-UAXP-AKSU-J	Simplicity should bring cost cuts across the board.
ANON-UAXP-AKS9-P	As above.
ANON-UAXP-AKSX-N	If done through RTL, then the IOM Government should make sure it highlights access to this facility on its own website and especially through the General Registry and Courts.im websites. I do feel that access to this information which is a matter of public record should not come at a cost of £4 per search as this could put off the one-off users, after all it is a matter of public record as small claims hearing in particular are heard in a public court.
ANON-UAXP-AKG3-4	The register would have to be accurate and this may be difficult if debtors are paying a Coroner or Claimant by instalments.
ANON-UAXP-AKGV-7	Given that we have over 15,000 active Isle of Man clients and the margins of our business model, the £6 per search (The price after the increase in January) is not viable. I have been told by RTL that there is no volume pricing and the only other option is to purchase the data in bulk, unfortunately I have not been able to get a price to do this. If the register is not affordable it will not be used and therefor will not be of any benefit.
ANON-UAXP-AKGG-R	No, the cost is fair and reasonable, access is straightforward.
ANON-UAXP-AKG4-5	None.
ANON-UAXP-AKGC-M	No provided the cost of access is as stated.
BHLF-UAXP-AKGD-N	Cannot see any problem.

Option 1 – Register of Executions.**3. Should the Treasury include warrants issued to recover debt on a revised register?**

Response from	Do you agree with proposal? / comments made
Ean Costain	I'm unsure.
Mr Lewin	Yes so a person can see the current position.
ANON-UAXP-AKSK-8	Include them on the current register but don't outsource it to an unaccountable third party. Who will own that data? The third party is effectively selling the personal data.
ANON-UAXP-AKSU-J	All debts should be treated as the same in opinion, we as a company have a considerably bad debt problem, we need to claim back our monies asap as we have creditors to pay immediately so if the Warrants means that normal small or large companies get to recover a debt more efficiently then this should be implemented.
ANON-UAXP-AKS9-P	Yes.
ANON-UAXP-AKSX-N	Yes absolutely. The public have a right to know which fellow citizens do not pay their due taxes, which adds burden to other taxpayers through reduced public services.
ANON-UAXP-AKG3-4	This will obviously tie in with Q2. The information should be accurate and in some cases (e.g. Income Tax) where adjustments are made as to amounts owed or instalment payments, this could prove problematical to keep information current.
ANON-UAXP-AKGV-7	Yes, So that the registry is fit for purpose all debts should be included
ANON-UAXP-AKGG-R	Yes, so that the person enquiring can see current liabilities and executions.
ANON-UAXP-AKG4-5	Yes, the ability of a business/individual to pay will be impacted by all debt recovery activities.
ANON-UAXP-AKGC-M	Yes as stated in section1
BHLF-UAXP-AKGD-N	We would agree with this.



Option 1 – Register of Executions.**4. Do you envisage any implications for individuals / businesses through further data being available to credit reference agencies regarding executions made?**

Response from	Do you agree with proposal? / comments made
Ean Costain	Yes and rightly so. Consumers should be aware of companies and/or individuals who have defaulted previously in order to protect them.
Mr Lewin	No.
ANON-UAXP-AKSK-8	Yes.
ANON-UAXP-AKSU-J	No.
ANON-UAXP-AKS9-P	Yes, again with any searches being with the consent of the individual. I believe business information should be available without consent.
ANON-UAXP-AKSX-N	Hopefully it will shame them into paying their debts.
ANON-UAXP-AGK3-4	With regard to companies, most will have at some point a cash flow problem which can be explained to credit reference agencies where necessary. However a pattern of debt may indicate problems which if picked up could lead to the prevention of additional debts and the subsequent hardship to a potential Claimant.
ANON-UAXP-AGKV-7	As the data protection laws are different between the Island and the U.K. and may diverge further in the future the treasury should be mindful of giving data to a foreign processor and should seek guarantees that the data will be handled under Manx Law.
ANON-UAXP-AGGG-R	There is a risk that individuals and businesses may have sensitive data placed in the 'public' domain which may prove to result in reputational damage but that is not as damaging as it would be parties contracting with those who have been prosecuted for not paying for rent and services.
ANON-UAXP-AGK4-5	No, more in line with the UK.
ANON-UAXP-AGGC-M	No. The more information the better!
BHLF-UAXP-AKGD-N	We do not envisage any implications.

Option 2 – Crown Preference:
5. Do you believe the Crown preference should be amended?

Response from	Do you agree with proposal? / comments made
Ean Costain	Yes.
Mr Lewin	Yes.
ANON-UAXP-AKSK-8	Yes.
ANON-UAXP-AKSU-J	Yes.
ANON-UAXP-AKS9-P	Yes.
ANON-UAXP-AKSX-N	Yes.
ANON-UAXP-AMG3-4	Yes.
ANON-UAXP-AMGV-7	No.
ANON-UAXP-AMGG-R	No.
ANON-UAXP-AMG4-5	Yes.
ANON-UAXP-AMGC-M	Yes.
BHLF-UAXP-AKGD-N	Yes.

Option 2 – Crown Preference.

5. If yes [to the question above], should:

a. the preference be removed in entirety?

b. limitations be placed on the level or scope of the preference? (Please outline)

Response from	Do you agree with proposal? / comments made
Ean Costain	<p>A. Removed in entirety.</p> <p>I don't see why the crown should take preference over other creditors.</p> <p>As an aside the crown could take further more effective steps, i.e. why would a company that has defaults to the government continue to receive government contracts?</p>
Mr Lewin	<p>A. Removed in entirety.</p> <p>A debt of £1k is significant to a self-employed person or small company, especially if 90% was for materials. The same level of debt does not have that impact on the Crown.</p>
ANON-UAXP-AKSK-8	<p>B. Limitations should be placed on the level or scope of the preference.</p>
ANON-UAXP-AKSU-J	<p>B. Limitations should be placed on the level or scope of the preference.</p> <p>Is it not possible if an individual or company owes a lot of debt that the Warrant system could be combined in such a way that the bad DEBTS become one, then shared out in a fairer way to all concerned, also giving the bad debtor a longer period of time to return the bad DEBTS to the creditors. Surely this would save lengthy paper trails for the individual/company and be a fairer recovery system for all concerned.</p>
ANON-UAXP-AKS9-P	<p>A. Removed in entirety.</p>
ANON-UAXP-AKSX-N	<p>B. Limitations should be placed on the level or scope of the preference.</p> <p>I find this difficult to quantify.</p> <p>If Mrs Jones is owed say 2500 which is a significant amount to her and the Government is owed £250,000, it would be fairer for Mrs Jones to be paid her monies first as it will have a greater benefit to her (potentially) than IOM</p>

	Government. Perhaps some form of means testing could be considered so that those in need most are the preferred creditors in the event the debtor is able to pay.
ANON-UAXP- AKG3-4	<p>B. Limitations should be placed on the level or scope of the preference.</p> <p>Each case is individual and so requires individual consideration. For example a small firm employing one or two people or indeed a self-employed person may have an existing Judgement with Execution for a relatively small amount. The satisfaction of that claim could mean the difference between that person/firm staying in business (thus keeping people in employment) and going to the wall leaving the Government to provide benefits etc. for the workers. A small amount would not generally be of any great benefit to Government but may in the long term save Government money as the benefits etc. would not have to be paid.</p>
ANON-UAXP- AKG4-5	[Respondent indicated that the preference should not be removed in entirety].
ANON-UAXP- AKGC-M	A. Removed in entirety.
BHLF-UAXP- AKGD-N	<p>B. Limitations should be placed on the level or scope of the preference.</p> <p>We do believe that The Treasury warrants which are separate to the Court should be listed on the register.</p> <p>We have, in the past, suffered non-recovery of debts through later debt recovery being applied for by the Treasury and therefore 'we go to the back of the line again' after Treasury. We believe that once in line for repayment of debts we should not be overtaken by later debt recovery.</p> <p>We understand non-payment of NI/ITIP for individuals is an issue and does need to be a major consideration. Perhaps, as mentioned in point 2.8, the scope could be altered to protect debts from losing their preference with regards to collection.</p>
Option 3 – The Recovery of Rent Act 1954.	
6. Do you believe that the existing preferential creditor treatment for landlords regarding the recovery of rent should be amended? (Please provide details)	
Response from	Do you agree with proposal? / comments made
Ean Costain	Yes.

	Again, I don't believe any creditor should take preference over another.
Mr Lewin	No. It is vital to try and keep the roof over heads, when that is lost then the family unit spirals out of control and increased benefits required.
ANON-UAXP-AKSK-8	Yes.
ANON-UAXP-AKSU-J	Yes. Landlords will have the same credit checks available to them as everyone else, either way you look at it a bad debt is a bad debt I believe if people won't pay their debts for no other reason than they won't and speaking from experience there are plenty of people out there that simply work the system, they should be classed a criminals. If someone falls behind with their rent they should be able to approach their landlord to discuss the situation, I believe the Landlords need more help to be able to get the tenant out of the property.
ANON-UAXP-AKS9-P	No. It is easier for the recovery of debt if the location of the debtor is known. If a landlord expects to not collect their rent, they are more likely to terminate and evict making the pursuit of debt harder.
ANON-UAXP-AKSX-N	Yes. Landlords should be more responsible when renting out their properties and do their background checks on people properly. They are no different from any other business who provides credit facilities to customers It might also stop some of the more vindictive landlords (<i>redacted for legal reasons</i>) from taking on low income tenants and then harassing them through the courts and making their lives hell.
ANON-UAXP-AKG3-4	Yes. The current situation of prioritising 12 months' rent is a nonsense. On what level of rent is it calculated? E.g. Local Government housing rent would not amount to a substantial amount, where on the other hand someone in the private sector could be paying over £2k per month rent. Is it right and just that the latter person should have such a large amount in their bank account virtually untouchable? If their circumstances have changed this person can always move to a more viable property. - The cloth has to be cut accordingly!
ANON-UAXP-AKGV-7	Yes. The preference should be removed completely

ANON-UAXP- AKGG-R	No. Outstanding rents would normally be large amounts and often rent is the 'last' debt to be paid during periods of tenancy. Many people do not view non-payment of rent as a form of theft.
ANON-UAXP- AKG4-5	Yes. I see no reason why a landlord should have a benefit over any other company/individual who are attempting to recover a debt.
ANON-UAXP- AKGC-M	No. It is essential that the rental market maintains the preferential status that exists. If not the rental market in the Island would eventually lose the significant investment that it enjoys now.
<p>Option 3 – The Recovery of Rent Act 1954.</p> <p>6. If yes [to the question above], should:</p> <p>a. the preference be completely removed so that no priority is afforded to rent recovery? (Please provide details).</p> <p>b. the limits of preference be amended from the current 12 months of rent and if so to what period?</p> <p>c. the amount subject to preferential treatment should be capped and if so to what amount?</p> <p>d. the preference be applied only in certain circumstances i.e. business tenancies?</p> <p>If you are proposing limiting preference please supply details outlining why these should be applied.</p>	
Response from	Do you agree with proposal? / comments made
Ean Costain	A. the preference be completely removed so that no priority is afforded to rent recovery. It should be part of the risk of investing property. All investments carry an element of risk, why should those who have chosen to invest in this asset class receive preference over those who have not.
Mr Lewin	6 months of rent is a fair period.
ANON-UAXP- AKSU-J	A. The preference be completely removed so that no priority is afforded to rent recovery. Rent recovery is the same as any other debt is it not?

ANON-UAXP- AKSX-N	Remove the preference completely.
ANON-UAXP- AKG3-4	The amount to be capped should be at the level that is either already owed to the Landlord or to two months' rent which would enable the tenant to obtain more suitable accommodation for their current circumstances. This would also prevent further rent deficiencies accumulating further disadvantaging the Landlord.
ANON-UAXP- AKGV-7	A. the preference be completely removed so that no priority is afforded to rent recovery.
ANON-UAXP- AKG4-5	I believe the duration should be reduced to 6 months and the amount capped at an average rate for the type of property the proposal would enable the debtor to find alternative property and release funds to pay debts
Option 3 – The Recovery of Rent Act 1954.	
7. What impact do you envisage should the landlord's preference be removed or amended?	
Response from	Do you agree with proposal? / comments made
Ean Costain	I think a number of landlords would complain, however I believe any actual impact would be minimal, even if it does cause property values to normalise this would allow more people to access the market. I.e. first time buyers.
Mr Lewin	The owners and public sector housing has no real impact on them.
ANON-UAXP- AKSU-J	Landlords will have to have the same preferences given as they are in the trade of property which is the same as any other company "to make money" the impact will give all trades a fair scope to retrieve monies owed to them. The system just needs to be more streamlined as a whole, Customer = Tenant tenant = customer non-payment of service provided is the same as any other service provided it needs to be recovered somehow. Bring in the same sort of debt collecting as they do in the UK with the powers of Bailiffs this helps landlords more also the bailiffs will be able to collect items of the same value or more from the bad debtor. I also think that where it can be proved that a person is a prolific bad debtor they should be prosecuted in the same manner as shop lifting, quite simply if they order or receive goods KNOWING they can't pay for them they should be punished the same as any thief.
ANON-UAXP- AKS9-P	More "gone aways".

ANON-UAXP- AKSX-N	?
ANON-UAXP- AKG3-4	Landlords would be encouraged to take action earlier in the case of a bad payer and not to let a debt increase to perhaps an unattainable level. If the debtor has money in an account it also leaves the Coroner able to arrest those funds and to satisfy other Judgements which may exist against a tenant.
ANON-UAXP- AKGV-7	It would allow non-landlords fairer access to recover monies owed. Given that the financial landscape has completely changed since this preference came into being it is no longer required and it is time that it is removed.
ANON-UAXP- AKG4-5	Landlords will be more vigilant in their management of tenants.
ANON-UAXP- AKGC-M	If it was removed, see comments to question 6. The quality of Island rental properties is to be commended and should this preference be removed the investment will reduce and the outcome will be a downhill slide to cutting corners and substandard properties. This will then put pressure on Government to provide even more Public Sector housing, which in today's climate it cannot afford.

Appendix B Respondents to the Consultation:

Feedback was received on behalf of the following persons, who gave their permission for their responses to be published in full:

- **Ean Costain**
- **Mr Lewin**

Submissions were also received from 10 more persons and organisations who asked that their submission be published anonymously. 3 further submissions were received from persons who requested that their submissions not be published at all.

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Background and Introduction

The effectiveness of the current legislative and organisational framework in respect of the collection of debts on the Isle of Man has been the subject of periodic review since 1995 when a first report by the then Value for Money Committee was published.

Various other reports and indeed draft legislative proposals have been brought forward in the following years through numerous working groups and through Government and Private Member promoted Bills.

Legislative proposals focussed on a wide spectrum of issues including the introduction of private licensed debt collectors, new insolvency laws, the creation of an insolvency service office under the control of an “official receiver” role and reforming the organisational structure and role of the coroners.

A Private Members’ Bill was enacted in 2012 which attempted to tackle a number of these issues. However, the Treasury has been unable to find a solution to the underlying issues surrounding its implementation, and interaction with other reform proposals noted, which provides a more effective and cost efficient approach to debt collection for all parties involved.

The revised approach now outlined within this document seeks to both build upon the previous work undertaken and also provide a more structured and phased approach for reform.

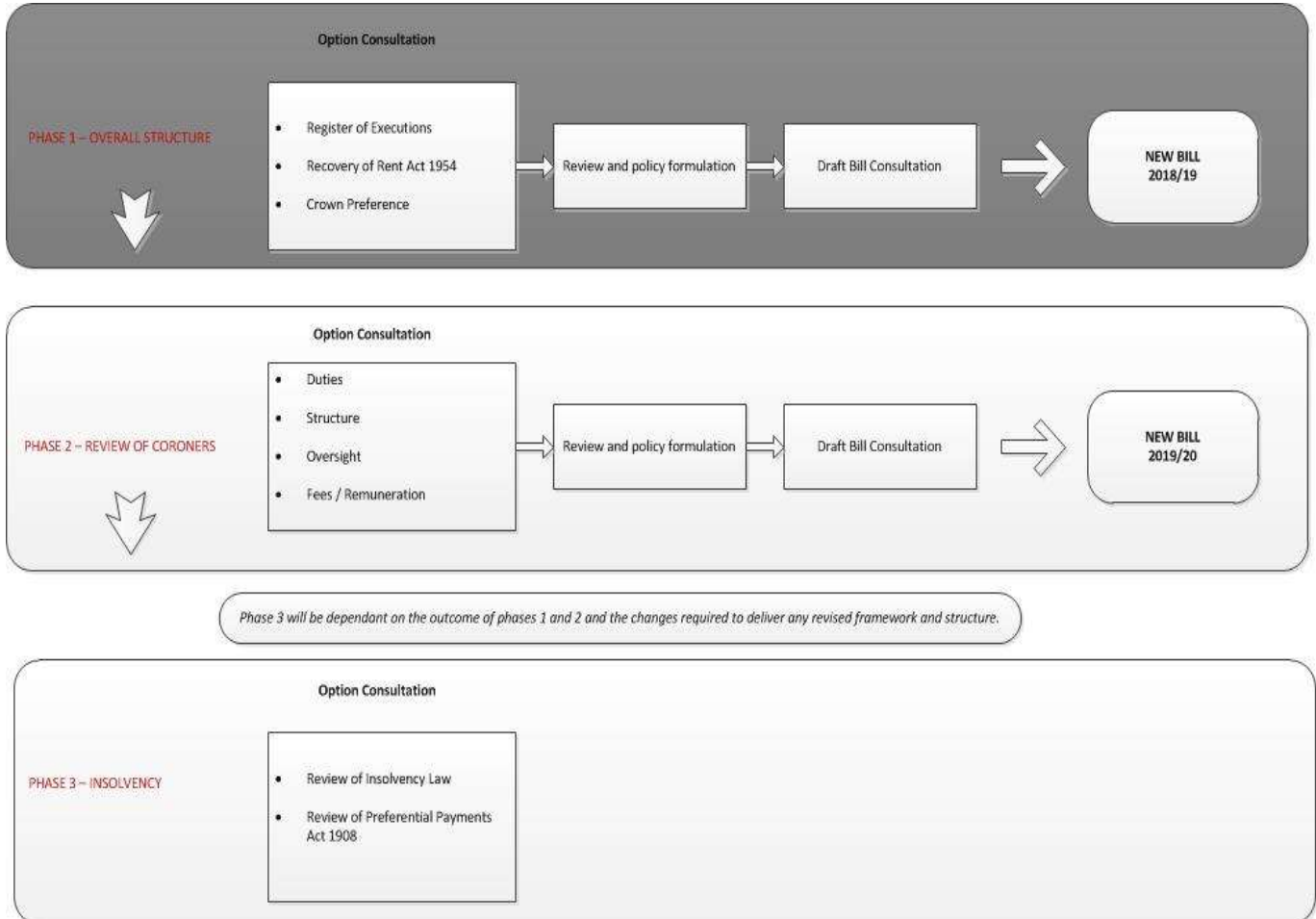
The work outlined constitutes a wide reaching re-evaluation covering all relevant underlying legislation, organisational framework and procedures relating to the collection of civil debt (as defined for the purpose of this document within the glossary).

The proposals consist of a number of phased workstreams as outlined in *Table 1*.

This document contains details regarding the initial phase which concentrates on reviewing and improving the underlying framework of how debts are recorded and made accessible. It also offers options in areas that effect how debts are then recovered by the coroners.

If changes are proposed following this initial consultation, they would require new primary legislation to implement them. If appropriate, the Treasury will therefore promote a draft amending Bill following consideration of all relevant issues raised. The draft Bill will be subject to further full public consultation.

Table 1 – phased approach



Further Phases

Following the progression of an initial Bill, the Treasury will further outline options for reviewing the current coroner structure. This phase will seek to address the concerns that have long been evident about the effectiveness of current enforcement provisions. All the reviews undertaken into the role of the coroners in enforcement have outlined that collecting monies can be difficult whether it be from individuals or corporate bodies. Work here will therefore consider the scope of the coroners’ duties and whether additional powers could be provided. A similar approach will be undertaken to gather views and subsequently bring forward an amending Bill if appropriate.

The third phase will consider options for reviewing the current insolvency framework and all related legislation. The timing of this work will be dependent on the outcome of the preceding phases.

In addition, the Treasury is working closely with the Isle of Man Financial Services Authority to develop a framework to enable the Government to resolve domestic systemically important banks (what effectively relates to the introduction of specific bank insolvency law). Although this is separate from general insolvency law, any relevant research undertaken as part of this will be integrated into the work to be undertaken in phase 3.

A [Glossary](#) is included within this document which provides explanation and interpretation of the terms used.

Phase 1 – Overall Structure

Three main policy options have been identified within phase 1 and comments are now being sought which will be carefully considered when considering the scope and content of a draft Bill.

Option 1 – Register of Executions

Should a revised Register of Executions be developed and introduced?

Option 2 – Crown Preference

Should Government retain a preference over other creditors when recovering certain debts?

Option 3 – The Recovery of Rent Act 1954

Should landlords retain a preference over other creditors in relation to the payment of rent?

The Treasury recognises the potential benefits and supports the introduction of a revised Register of Executions under option 1, subject to feedback regarding scope, format and access.

The options outlined with regard to Crown preference and [the Recovery of Rent Act](#), are intended to gain the views of any interested persons or bodies on a number of key overarching policy issues. Feedback will then be closely considered in determining whether, and to what extent, further proposals will be included in any draft Bill.

Option 1 - Register of Executions

Overview

- 1.1 Creditors seeking recovery of monies owed can pursue this in a variety of ways. One commonly used method is to seek a court judgment.
- 1.2 Judgments handed down by the courts can be enforced by coroners subject to the judgment creditor applying for execution by either filing a written request or when judgment is determined at the trial/hearing. Provided no stay has been granted, the court can grant execution for the amount plus interest (if any) and costs.
- 1.3 Debts subject to execution and placed with the coroner are enforced subject to preference under the [Preferential Payments Act 1908](#) (PPA) and the [Debtors Act 1820](#) but otherwise by the date by which they are received by the relevant coroner. Existing preference is explored further under [Crown Debts](#).

- 1.4 At present a register of such Court Executions is available for inspection in hard copy through the IoM General Registry at the Courts of Justice building during working hours.
- 1.5 In addition, the IoM General Registry provides limited data on such default judgments to a UK not for profit organisation named [Registry Trust Ltd](#) (RTL). Amongst its functions, RTL operates a service called Trust Online which offers a fully searchable electronic register of Judgments, Orders and Fines in England and Wales (and other affiliated jurisdictions such as the IoM).
- 1.6 Information which can be supplied by the IoM General Registry is however limited by statute which also prevents changes to the current hard copy arrangements.

Options for a revised register

- 1.7 The Treasury believes that a key initial step in tackling the wider issues regarding debt management and recovery is the creation of a new fully accessible IoM Register of Default Judgments, Orders and Fines which has a statutory basis and is open and accessible to all electronically.
- 1.8 Information would be available to anyone on any Isle of Man business or individual (or on themselves), by providing the necessary search details and paying an appropriate fee.
- 1.9 Additionally the operator of the IoM Register would make information available, in bulk, to commercial organisations e.g. credit reference agencies, as it does for its existing services.
- 1.10 In order that the Isle of Man Register is accessible and as effective as that in England and Wales, it is envisaged that it will be operated on behalf of the Isle of Man Government by a third party.
- 1.11 As outlined, the IoM General Registry already provides data to RTL for certain default judgements and this existing relationship could be extended to meet any requirement for a more extensive IoM register.
- 1.12 At present, High Court Judgments and Tribunal Awards (unlike the position in England and Wales), cannot be included under current legislative provisions which also require hard copy lists to be maintained by the IoM General Registry and made available at their specified premises. This fragmented approach is ineffective for both Government and importantly for those seeking to access a "one stop" overview of all available data.
- 1.13 It is also anticipated that, as new systems are developed and brought online during 2018, additional data on fines imposed will be available for publication by RTL, or any other agreed third party.
- 1.14 The extended register would: reduce costs and risk to Government; provide further incentive for payment by providing easy access to information also aiding data collection by credit reference agencies; and assist with future proofing, good practice and compliance from an information management and data protection perspective.

- 1.15 Data security is a key issue and the use of personal data must be compliant with Data Protection legislation. New law, through the General Data Protection Regulation (GDPR), will come into effect in May 2018 and will make it more critical that robust procedures are in place to ensure the accuracy of data held. By using RTL the IoM will be able to have confidence that all necessary steps are taken by a body, or any other compliant third party organisation, that has significant experience of data sharing and regulatory compliance.
- 1.16 If the IoM Government was to seek to set up its own new register to meet the GDPR it would be necessary to invest significant resources both in IT and officer time and also set up separate agreements with the Credit Reference Agencies. The need to address these issues, together with the anticipated low level of searches, means it is not considered a cost effective alternative to engagement with RTL or any other agreed third party.

Crown Debts

- 1.17 The Treasury recognises that if a revised register is to provide a clear and fully transparent representation of all debt, it should also include all those debts being pursued by Government.
- 1.18 At present, the Treasury raises "[warrants](#)" for debts incurred in respect of certain Income Tax or Customs and Excise liabilities. For example, under statute, the Customs and Excise Division is able to raise Treasury warrants for VAT and gambling duty debts, but not other liabilities including Customs or Excise duties.
- 1.19 These warrants have the same legal status as judgments passed down from the High Court and they are delivered directly to the coroners for execution.
- 1.20 Treasury warrants are not entered onto the existing judgments register and are therefore not visible to other creditors when considering the options for recovery of debt.
- 1.21 The issuing of Treasury warrants in this manner was introduced to provide an alternative method of debt recovery which avoided the need to bring the matter to court as such action was incurring increasing costs to Government (and in turn taxpayers) whilst also placing unsustainable demands on court time.
- 1.22 This warrant process only applies to certain statutory debts pursued by the Treasury. All other debts which the Government seeks to recover must be pursued through the courts.
- 1.23 Debts raised through the Treasury warrant process are classified as Crown debts. Crown debts are defined by statute¹ and currently enjoy preferential status over other debts i.e. amounts due are payable from a debtor's assets ahead of any others.
- 1.24 The Treasury does not believe that the current practice of issuing warrants needs to be amended or replaced. However, comments are sought regarding how they are treated in terms of priority (see [Option 2](#)) and here in terms of how they are publicised.

2. For example section 144(1) of the [Customs and Excise Management Act 1986](#); section 97 of the [Income Tax Act 1970](#); section 1A(4) of the [Income Tax \(Instalment Payments\) Act 1974](#); Schedule 12, paragraph 5 of the [Value Added Tax Act 1996](#).

- 1.25 In order that all outstanding debt can be assessed by interested parties, the Treasury could include warrants it has issued, and which are executable by the coroners, on a revised register. To accommodate this, changes will be necessary to existing legislation and new provisions will be required within the proposed Bill. Warrants would still be raised by the Treasury in the same manner, but they would not be executable by the coroners until they are entered on the revised register.
- 1.26 Any changes introduced would require further consideration regarding transitional arrangements to ensure preference for existing judgments are protected where appropriate.

Access and costs

- 1.27 Access to the revised register would be via RTL's current arrangements through the website www.trustonline.org.uk. Users are required to pay the relevant one-off fee or set up account facilities with RTL.
- 1.28 The current standard pricing details are:
- One search on a Register or section of the England and Wales Register £ 4.00
 - Two Registers and/or sections of the England and Wales Register £ 8.00
 - Three or more Registers and/or sections of the England and Wales Register £ 10.00
- 1.29 Government or an individual/company can therefore easily check the credit status of an individual/company that they intend doing business with thus potentially reduce the risk of bad debt. Users will also be able to subsequently consider the likelihood of being paid before issuing legal proceedings or taking steps to enforce judgment, thereby managing expectations of the coroners.
- 1.30 Information on the RTL website advises each search made will be against a single name or trading style at a single specified address or against a limited company. Searches can be requested against any of the Registers held by RTL.
- 1.31 Charges for accessing the Register will be monitored so that they are not increased unduly without consultation with the Treasury who will seek to ensure that any increases are at appropriate levels to reflect the cost of provision.
- 1.32 As access to the revised register will be available 24 hours a day electronically and will accurately reflect current judgments, the hard copy register currently maintained by the IoM General Registry and available from the Courts of Justice building, will be discontinued.

Summary

- A new "Executions Register" could be introduced to include all default judgments, including those issued by the High Court, fines and tribunal awards.
- The Register would be maintained by a third party (currently RTL) and be available on-line for a fee set by the third party but subject to local safeguards over costs.

- The current hard copy register maintained by the IoM General Registry would be discontinued.
- In order to provide full visibility of all debts, warrants issued by the Treasury could also be included on the revised register.
- Transitional arrangements will be considered and outlined in further detail during consultation on a subsequent draft Bill.

Questions for Option 1 – Register of Executions

- i) Do you agree that a revised register as outlined would be beneficial and, if so, how?**
- ii) Do you envisage any practical implications with the proposed arrangements for the revised register (costs, digital exclusion etc.)?**
- iii) Should the Treasury include warrants issued to recover debt on a revised register?**
- iv) Do you envisage any implications for individuals / businesses through further data being available to credit reference agencies regarding executions made?**

Option 2 - Crown Preference

Overview

- 2.1 As noted under [Option 1](#), in order to provide a single complete list of outstanding enforceable executions, the Treasury would have the option to include warrants it has issued.
- 2.2 The [Preferential Payments Act 1908](#) (PPA) sets out the order in which debts are payable in accordance with the priority of creditors. At present, warrants issued by the Treasury (classed as Crown debts under section 3(a) of the PPA), have preferential payment status. This means that coroners enforcing judgments must recover debts raised through warrants ahead of any other non-preferred judgments issued by the courts.
- 2.3 Crown preference is historic and is based on a number of underlying principles. For example, unlike private creditors, taxing authorities are involuntary creditors, unable to choose their debtor or obtain security for debt before extending credit. The preference could therefore be seen as compensation for this disadvantage of being a “non-pressing” creditor.
- 2.4 A further argument could be raised with regard to taxes for which the debtor is seen to be acting as the government's tax collector e.g. for VAT in that, if no priority is imposed, the

moneys collected by the debtor through tax charged to the customer may increase that available for the benefit of unsecured creditors. In these circumstances, the tax priority could be seen to operate to prevent a windfall to general unsecured creditors who have no fair claim to the collected funds.

- 2.5 The Treasury believes that it is vital that all taxpayers meet their obligations and that the right tax is charged and is payable at the right time. Collecting revenue from direct and indirect taxation in a timely manner is vital to ensuring that The Programme for Government can be delivered and an annual balanced budget can be reached. Removing Crown preference may possibly affect revenue receipts, increase legal costs for recovery and could shift the burden of a debtor's unpaid taxes to other taxpayers.
- 2.6 Conversely, it is recognised that the existing preference may restrict the ability for other creditors to recover debts and this may have a negative overall effect on the local economy.
- 2.7 The Treasury is therefore seeking views on whether the existing preferred status for Crown debts should continue. If preference is removed, all such debts would rank alongside other unsecured creditors in keeping with the date of execution. Further consideration would be needed as to how such debts could be actioned by the coroners, dependant on whether or not they are entered to a revised register (as outlined under option 1).
- 2.8 A further option for consideration may be to limit the scope of preference for Crown debt. For example, preference could remain when warrants are executed, but this could be limited to a period of months. If the debt is not recovered after that period, the debt could lose its preference.
- 2.9 As previously noted, significant further work will be required to achieve fair and transparent transitional arrangements if a move away from Crown preference is progressed. This would be progressed and consulted upon as part of any subsequent draft legislation produced.

Summary

- The Treasury issues warrants, separate to the Courts, to recover debts. These warrants are not recorded on the existing Executions Register.
- Treasury warrants are currently passed directly to coroners and are not visible to other creditors.
- Treasury Warrants (classed as Crown debts) have priority over other non-preferred creditors.
- All other Government debts rank alongside other non-preferred creditors.

Questions for Option 2 – Crown Preference

v) Do you believe Crown preference should be amended?

vi) If yes, should:

- a. The preference be removed in entirety?**
- b. Limitations be placed on the level or scope of the preference?
(Please outline)**

Option 3 - The Recovery of Rent Act 1954

Overview

- 3.1 The [Recovery of Rent Act 1954](#) (the Act), currently provides that a tenant with an execution against them must be left with sufficient funds to meet their current rent costs for up to 12 months.
- 3.2 This legislation, which sits outside the PPA, provides a level of specific protection for landlords even when other debts have been progressed to judgment and execution. Such a preference, ensuring that landlords will continue to receive rent even if debts are pursued against their tenants, appears unique to the Isle of Man.
- 3.3 The same “safeguard” is not in place for debtors who are making mortgage payments. Coroners are empowered to recover executed judgment against debtors regardless of any ongoing mortgage commitments a debtor may have.
- 3.4 It could be equally contended that those able to invest in property are better placed than those in the rental market, possibly having some capital asset to fall back on.
- 3.5 Section 4 of the Act states:

"4 Landlord's preference

(1) When the respective priorities of creditors are to be ascertained, there shall be paid in priority to all debts, save as provided by section 3 of the Preferential Payments Act, 1908, all rent out of any holding of property, both being in arrear at the date hereinafter mentioned, and then accruing due in respect of the current period, provided that such rent shall not be in respect of a period longer than one year.

Provided always, any agreement to the contrary notwithstanding, where under a condition for re-entry a landlord re-enters and determines a tenancy any rent payable in respect of the tenancy shall cease from the end of the current period.

(2) All rent other than the rent referred to in this section shall be a common debt, and a landlord shall be entitled in respect of non-payment thereof to the same remedies as a common creditor.

(3) The date in this section referred to is, as the case may be —

- (a) in the case of a landlord's arrest, the date of the order of arrest;*
- (b) in the case of an enforcement of an execution by arrest and sale, the date of such enforcement;*
- (c) in the case of proceedings under the Bankruptcy Code for the time being in force, the date of the receiving order, or the date of the registration of the deed*

of arrangement, or the date of the order of adjudication, whichever shall first happen;

- (d) in the case of a dissolution of a partnership, the date of the filing of the action, provided that it is followed by dissolution;*
- (e) in the case of a liquidation of a company registered under the Companies Act for the time being in force, the date of the commencement of the liquidation;*
- (f) in the case of an order made for the administration, winding up and distribution of the estates real and personal of a decedant, the date of the death of the decedant.*

(4) In this section, the expression 'current period' means —

- (i) in the case of a tenancy for years, the current year, or the period until the end of the term, whichever is the shorter;*
- (ii) in the case of an annual tenancy, the current year;*
- (iii) in the case of a quarterly tenancy, the current quarter;*
- (iv) in the case of a monthly tenancy, the current month;*
- (v) in the case of a lunar monthly tenancy, the current four weeks;*
- (vi) in the case of a weekly tenancy, the current week."*

- 3.6 Such provision may well affect the ability of the coroners to successfully enforce judgment executions.
- 3.7 Additionally, the option of an enhanced register with the intention of facilitating a more effective level of debt recovery and increased transparency may be compromised if, for example, other creditors are unaware of this overriding preference and the possible inability of coroners to recover judgments when considering how to proceed.
- 3.8 This historical preference may have been as a result of circumstances current at the time of enactment (1954) although it is difficult to assess specific policy intentions dating back over such a period of time. No such equivalent preference appears to exist in England and Wales or indeed other comparable jurisdictions.
- 3.9 Justification may remain to retain the current position. Indeed, internal discussions within Government have established a number of implications and potential consequences should any changes be implemented. Equally, given the added benefit of a more easily accessible, extended and more complete register of judgments, in many cases landlords may be able to better assess a prospective tenant's financial position before entering into any tenancy agreement. This could partly or wholly negate the need to specifically prioritise the payment of rent ahead of other executable debts.
- 3.10 As part of this overall review process, the Treasury therefore believes that the current position should now be examined and all options considered.
- 3.11 The Treasury may also review the priority of other creditors within the PPA as part of further work in later phases. For example, some preferences need to be considered in the wider context of insolvency law. This initial consultation is therefore not seeking comment outside of the options outlined here in respect of landlord's preference and previously regarding Crown preference.

Summary

- The Recovery of Rent Act 1954 provides that coroners must ensure any debtor being pursued for a judgment execution, is left contracted rental payments for up to 12 months before recovery of any debt is made.
- This position may be considered inequitable to all other creditors and therefore the Treasury believes it is prudent to reconsider this “preference” within the context of the overall review of existing debt recovery provisions and the other options outlined in this consultation.
- No specific details are suggested or endorsed, but options include:
 - Retaining current provisions.
 - Introducing limitations on preference, for example, only for business premises.
 - Amending the cap on the time and monthly amount which may be subject to the preference e.g. reducing to a maximum of 3/6 months or capping at £5000/£1000 etc.
 - Removing the preference entirely.
- It is not proposed that any existing priorities contained within the Preferential Payments Act 1908 (as amended), other than those to be considered under option 2 regarding Crown debt, would be affected by any changes outlined in this initial consultation.

Questions for Option 3 – Amendment to the Recovery of Rent Act 1954

- vii) Do you believe that the existing preferential creditor treatment for landlords regarding the recovery of rent should be amended?**
- viii) If yes should:-**
- a. The preference be completely removed so that no priority is afforded to rent recovery?**
 - b. The limits of preference be amended from the current 12 months of rent and if so to what period?**
 - c. The amount subject to preferential treatment should be capped and if so to what amount?**
 - d. The preference be applied only in certain circumstances i.e. business tenancies?**
- If you are proposing limiting preference please supply details outlining why these should be applied.**
- ix) What impact do you envisage should the landlord’s preference be removed or amended?**

Consultation Process

This consultation paper is issued by the Treasury for the purpose of obtaining views, and, where relevant, evidence to support those views, on the options set out above. There are a number of questions throughout this consultation paper on specific aspects of the options.

The Treasury would welcome your views on the options. The closing date for the receipt of comments is 5pm on Friday 29th December.

Responses must be in writing and made via the Isle of Man Consultation Hub or sent by e-mail to:

Policy and Legislation Team
Financial Governance Division
Treasury
Government Office
Bucks Road
Douglas IM1 3PG
E-mail: treasuryconsultations@gov.im

Electronic copies of this document are also available at: [Isle of Man Government - Government Consultations](#)

Publishing responses

Unless specifically requested otherwise (see below), responses received may be published either in part or in their entirety, together with the name of the person or body submitting the response. If you are responding on behalf of a group it would be helpful to make your position clear. To ensure that the process is open and honest, responses can only be accepted if you provide your full name with your response.

The purpose of consultation is not to be a referendum. It is an information, views and evidence gathering exercise from which to take an informed decision on the content of proposed legislation or policy. As with any consultation exercise, the responses received do not guarantee changes will be made.

The Treasury will aim to publish a summary of the responses within 3 months of the closing date for this consultation.

Confidentiality

In line with the Treasury's policy of openness, at the end of the consultation period copies of the responses we receive may be published in a summary of the responses to this consultation. If you do not consent to this, you must clearly request that your response be treated as confidential. Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request.

In respect of responses made via the Isle of Man Government's consultation hub at <https://consult.gov.im/>, you will be able to indicate your preference regarding the publication, or otherwise, of your response prior to commencing the consultation.

Respondents should also be aware that there may be circumstances in which the Treasury will be required to communicate information to third parties on request, in order to comply with any future obligations under the Freedom of Information Act 2015.

Appendix 1 Glossary of terms used in this document

Civil Debt - A civil debt is primarily a sum owed in relation to the conclusion of a lawsuit between two individual parties. The debt will usually come about through a Judge ordering in favour of one of the parties (see judgment) and that one of the parties should pay the other a sum of money. The debt can also come about by a court order endorsing a settlement offer reached by the parties during litigation proceedings. For the purpose of this consultation the definition also applies to debts raised through "Treasury warrants", fines and tribunal awards.

Coroners - The Isle of Man is divided into six administrative districts, called sheadings. The six sheadings are Ayre, Glenfaba, Garff, Michael, Middle and Rushen. Each sheading has a coroner.

There are currently 4 coroners:-

- sheadings of Ayre & Garff – **Mr Gareth Leece**
- sheadings of Glenfaba & Michael – **Mr Gordon Leece**
- sheading of Middle – **Mrs Kelly Sloane**
- sheading of Rushen – **Mr Mark Wrigley**

Coroners are empowered to enforce executions handed to them by creditors where judgment has been awarded by the Courts. Coroners are assisted in their duties by Lockmen.

Coroners also have responsibility for Court duties such as summoning of jurors and the service of process and other documents.

Crown Debt - Generally, the tax dues payable to the Government i.e. excise duty, custom duty, income tax, VAT and other duties as prescribed are known as Crown's dues or debts. Crown debts are put, by various statutes, upon a different footing from those due to other parties.

Execution - A judgment creditor applies to the court for execution by either filing a written request or when judgment is determined at the trial/hearing. Provided no stay has been granted at the hearing the court can grant execution for the amount plus interest (if any) and costs.

The court order for judgment and execution is placed in the hands of the court enforcement officer for enforcement.

A judgment creditor can enforce a judgment or order for the payment of money by any of the following means:

- Execution.
- Appointment of a receiver.
- Arrestment order.
- Charging order.
- Attachment of earnings order.

Unless a statutory provision or rule provides otherwise, the judgment creditor can use any method of enforcement available and can use more than one method of enforcement, either at the same time or one after another.

Fines - Criminal financial penalties imposed in a court of Summary Jurisdiction or in the Court of General Gaol Delivery.

General Data Protection Regulation (GDPR) - New data protection law which will mirror EU and UK provisions and which is due to come into force on the Isle of Man May 2018. New standards will be introduced in areas such as data storage and retention.

High Court - See Isle of Man Courts of Justice - www.courts.im/courtinformation/courtstructure/.

Judgment - A judgment handed down as a result of a court hearing whereby a claimant is awarded a sum of money against a named party. A judgment includes any order of the High Court for the payment of money and any process, but does not include a maintenance order, fine or judgment for a sum continuing until payment. The hearing will allow for both parties to present evidence. Getting a Judgment means that the creditor is now entitled to use various mechanisms to legally recover the money owed.

Preferential / Non-preferential creditor - A preferential or preferred creditor is a creditor receiving a preferential right to payment under applicable laws. Creditors can be given priority over ordinary or non-preferential creditors, either for the whole amount of their claims up to a certain value. The Preferential Payments Act 1908 (as amended) outlines preferred status for certain creditors. Other legislation, such as the Recovery of Rent Act 1954, can also set out a "preferred status" which must be applied to certain debts ahead of others.

Register of Executions - A register containing details of all default judgements, including those issued by the High Court, fines and Tribunal Awards. Additionally the register could include warrants issued by the Treasury.

Registry Trust Ltd - A UK not for profit organisation [Registry Trust Ltd](http://www.registrytrust.co.uk) which, amongst its functions, operates a service called Trust Online which offers a fully searchable electronic register of judgments, Orders and fines in England and Wales (and other affiliated jurisdictions such as the IoM).

Treasury warrant - Warrants are issued by designated Treasury officers under the Value Added Tax Act 1996, the Income Tax Act 1970 and the Gambling Duty Act 2012. Warrants issued are enforceable by Coroners in the same manner as an execution of the High Court.

Tribunal awards - Awards made by tribunals e.g. employment tribunals.



ISLE OF MAN
TREASURY
Yn Tashtey



The Treasury
Government Office
Bucks Road
Douglas
IM1 3PN