

## FACT SHEET

### *Land Titles Amendment Bill 2018*

The purpose of the Bill is to amend the *Land Titles Act 1980* (the Act) to repeal section 146(2) as requested by the Chief Justice of the Supreme Court of Tasmania.

The Bill is drafted to align the legislation to preferred Court practice.

#### ***Repeal of Section 146(2)***

Section 146(1) of the Act currently provides that a mortgagee, encumbrancee or lessor can apply to the Supreme Court of Tasmania for an order for possession of the premises where the term of a lease has expired in the case of a lessor, or default is made in the payment of any money secured in the mortgage, encumbrance or lease.

Under section 146(2) a summons issued by the Supreme Court of Tasmania directs the defaulting party being the mortgagor, encumbrancer, or lessee to show cause why that Court should not order possession of the premises to the mortgagee or encumbrancee.

In the opinion of the Supreme Court of Tasmania, issuing a summons as part of the section 146 process is unnecessary and in practice is disregarded by the person on whom it is served.

The previous Chief Justice, Hon Ewan Crawford, requested the change because it is unnecessary and creates a requirement on Judges to issue a summons as part of the process required under that section. The current Chief Justice, Hon Alan Blow, also has requested this amendment.

The change will reduce red tape by removing the requirement for a summons to be issued by the Supreme Court of Tasmania, result in a reduction of legal costs that are imposed by solicitors on their clients, and a reduction in the time required of the Court's registry staff.

Accordingly, the amendments involve the repeal of subsection 2 of section 146, with further consequential amendments made to that section to accommodate the repeal.