

DRAFT SECOND READING SPEECH

HON. SARAH COURTNEY MP

Land Titles Amendment Bill 2018

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Madam Speaker, I move that the Bill be now read a second time.

The purpose of the Bill is to amend the *Land Titles Act 1980* by repealing section 146(2) of that Act.

Section 146(1) of the *Land Titles Act 1980* currently provides that a mortgagee, encumbrancee or lessor can make an application to the Supreme Court of Tasmania for an order for possession of the premises.

Section 146(2) of the *Land Titles Act 1980* provides for a summons that is used to support the process under section 146(1).

The summons is directed to the defaulting party to attend the Supreme Court of Tasmania and provide reasons why the Court shouldn't give possession of the premises to the applicant.

In the opinion of the former and current Chief Justice 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.

This is because the application process provides sufficient opportunity for a defaulting part to be heard by the Court, and to consider all supporting affidavits and evidence.

No unfairness will result if the subsection is omitted.

It will not be possible for mortgagees to obtain orders for possession unless they have filed an application with supporting affidavits, obtained a hearing date, and served the documents on the mortgagor giving adequate notice of the hearing.

The previous Chief Justice, the Honourable Ewan Crawford, requested the change, and the current Chief Justice, the Honourable Alan Blow, also has requested this amendment.

This minor change to Supreme Court procedure will reduce red tape by removing the requirement for a summons to be issued by that Court.

Removing the red tape will result in a reduction of legal costs that are imposed by solicitors on their clients, including costs to the defaulting party.

Another benefit will be the reduction in the time required of the Court's registry staff and use of the Court itself.

No other jurisdiction in Australia has a statutory provision similar to Tasmania's.

There will not be any negative impact arising from the proposed amendments to the Act.

Rather this amendment is expected to be met with positive reaction from members of the Supreme Court of Tasmania, the Law Society of Tasmania and within the legal profession.

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

Madam Speaker, the Government fully supports the introduction of this Bill.

I commend this Bill to the House.