

DRAFT SECOND READING SPEECH***HON GUY BARNETT MP******Monetary Penalties Enforcement Amendment Bill 2026*****check Hansard for delivery**

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

The *Monetary Penalties Enforcement Act 2005* commenced operation in April 2008 and introduced a new way of collecting and enforcing the payment of fines, infringement notices, compensation and pecuniary penalty orders in Tasmania.

It has successfully removed thousands of minor criminal matters from our court system, most of them uncontested minor traffic and related offences which has freed up the courts, allowing them to focus on serious and contested matters.

The Act also created the role of Director, Monetary Penalties Enforcement Service (MPES) who is the sole authority for collection and enforcement of monetary penalties in Tasmania. This includes fines, compensation orders, pecuniary penalty orders, costs and levies imposed by courts; infringement notices issued by police and public sector bodies; and infringement notices issued by councils.

From the commencement of the Act to 31 March 2026, MPES had collected more than **\$363 million** in monetary penalties. The amount referred to MPES for collection collected in 2024-2025 was \$26.3 million with a collection rate of 88%. However, despite these successes, challenges remain with a significant proportion of offenders and debtors failing to engage with MPES and failing to make payments. For example, as of 1 March 2026, approximately 13,000 (23% of all debtors) owed \$19.5 million and had not made a payment for more than two years despite reminders and enforcement action. The total debt outstanding as at 31 March 2026 was \$76.6 million and approximately \$11.5 million was owed by debtors who are believed to be residing interstate or overseas. These are significant debts to the State and the Tasmanian community.

It is important that we provide an appropriate legal framework to allow these debts to be collected. In doing so, we strengthen the rule of law and send the message that people will be held to account for their actions and will be made to pay for breaching the laws of our state.

This Bill seeks to further improve the operation of the Act. It will help to ensure the system operates efficiently and effectively and continues to provide clear, accessible and enforceable collection pathways, which incorporate natural justice checks and balances within the system to provide fairness to all parties.

The amendments include changes to orders for redirection of money owing to clarify that money can be redirected from enforcement debtors' bank accounts which reflects the original intent of the Act. The Bill also includes requirements for copies of all redirection of money owing orders to be served on the enforcement debtor and for notification of changes of circumstances and other information to be given to the Director by certain parties in relation to redirection of money owing orders to enhance the operation of these provisions.

A number of changes in the Bill provide additional safeguards and review mechanisms for persons subject to redirection of money owing orders under the Act. These changes recognise the difficult financial circumstances some individuals may face in repaying monetary debts or the implications that arise from being subject to a redirection order to recover an enforcement debtor's debt.

These changes include broadening the current financial safeguards in the Act that apply to redirection of money owing orders to redirect earnings, to also apply to orders for redirection of money owing order issued on a third person who is indebted to the enforcement debtor under the Act. The need to ensure that persons owing debts to MPES were protected from unreasonable financial hardship was raised in submissions from the public and my Department has responded to ensure that appropriate safeguards exist in the Bill.

Additionally, the Bill also recognises the important roles of the Monetary Penalties Enforcement Service staff, and the Director, and inserts provisions that strengthen protections which will allow them to continue to act in the performance of their duties safely.

The Bill replaces the mandatory requirement for deductions of monetary penalties to be made from awards of compensation under the *Victims of Crime Assistance Act 1976* with a new discretion, leaving this determination to the Criminal Injuries Compensation Commissioner.

It also expands the current provisions in the Act relating to reciprocal enforcement arrangements with other jurisdictions.

I will now briefly outline the reasons for each of the proposed changes.

MPES generally uses a graduated collection and enforcement approach to the recovery of monetary penalties in Tasmania. Offenders are initially encouraged to pay through reminders and provided with opportunities to avoid additional enforcement fees and sanctions. However, if they fail or refuse to pay, an Enforcement Order can be issued. This notifies the offender that, if they take no action to resolve their outstanding monetary penalties, then sanctions and further fees may be applied. These include:

- Publication of name;
- Suspension of driver licence;
- Suspension of vehicle registration;
- Redirection of money; • Charge on registered land; and
- Seizure and sale of property.

The Bill removes the sanction allowing the publishing of an enforcement debtors name, address, licence number and the details of their monetary penalty, due to concerns around its implications for privacy, identity theft, stigmatisation of marginalised people and family violence victims. It is important to note that, due to these concerns, this sanction has not been used since 2023.

A redirection of money owing order, also known as a garnishment, allows the Director, Monetary Penalties Enforcement Service to require a person, other than the offender, to pay money towards the offender's debt. Redirection orders can either require wages or money owing to the offender (known as the enforcement debtor) by a third person to be redirected.

Currently, redirection of money owing orders are limited in their application with only three issued in the 2024-2025 financial year. The Bill makes a number of amendments to increase the ability to use redirection orders and improve their administration.

The Bill makes amendments in line with the original intent of the Act to allow redirection of money from bank accounts. When the Act was debated by this House on 23 November 2005, the second reading speech stated, ‘the sanctions which the director may impose under the bill include...redirection of money from an offender’s bank account.’ However, because the Act currently refers to an order to redirect all or part of a debt owing to the enforcement debtor, there may be doubt as to whether ‘debt’ is the appropriate term for money held in banks or similar institutions.

To address this and restore the original intent of the Act, the Bill makes it clear that redirection of money owing orders can be issued to an Authorised Deposit-taking Institution and clarifies that money in an account held by an enforcement debtor in an Authorised Deposit-taking Institution is a debt owed to the enforcement debtor for the purposes of the Act.

These amendments will apply retrospectively from the commencement of the Principal Act (28 April 2008). This is a removal of doubt and a validation provision intended to ensure that decisions to make redirection of money owing orders from enforcement debtors bank accounts issued since the date of commencement were validly made in accordance with the intent of the Act.

The Bill also clarifies the obligations on the Authorised Deposit-taking Institution in response to receipt of a redirection order.

Redirection of money owing orders to redirect earnings currently include a number of safeguards under the Act to limit the potential to cause severe financial impacts on the enforcement debtor.

This Bill inserts safeguards in relation to a decision to issue redirection of money owing orders on a person or ADI who is indebted to the enforcement debtor. The amendments require the Director to consider any evidence before them of the enforcement debtor’s means of

satisfying the debt; the necessary living expenses of the enforcement debtor; and other liabilities of the enforcement debtor.

The Bill also inserts a requirement for MPES to issue a copy of a redirection of money owing order on the enforcement debtor as soon as practicable after issue. This recognises that while these orders are issued on third parties, they affect the financial situation of the enforcement debtor.

The redirection of money owing orders made under the redirection of earnings provisions of the Act place responsibilities on an employer and affect the financial situation of the enforcement debtor. To ensure these responsibilities reflect the status of employment of the enforcement debtor, the Bill inserts a new requirement for an employer and enforcement debtor to notify the Director of any significant changes to the employment status of the enforcement debtor within a specified period.

The Bill clarifies that the Director may issue an order for redirection of earnings on the employer and, additionally, in circumstances where the enforcement debtor is a sole trader. It also strengthens protections for sole traders by making it clear that employers, including those who make payments under a contract for services, must not directly or indirectly disclose or communicate to any person any information about the enforcement debtor's financial affairs.

To further support the administering and enforcement of the Act, including the issuing of redirection orders, the Bill allows the Director to require a person to provide information or a document about a specific matter, within a reasonable period and in a stated reasonable way.

In addition to current difficulties in recovering debt from Tasmanian residents, where an offence under Tasmanian law is committed and the offender relocates or resides outside of the State, many of the enforcement actions that would otherwise be available to the Director cannot be applied or are of limited effect.

Part 9 of the Act provides for reciprocal enforcement of monetary penalties. These reciprocal arrangements currently allow for enforcement of certain penalties through a court request process.

Reciprocal legislation currently exists in Queensland and New South Wales.

Recovery through this process is expensive, difficult and often inefficient. The relevant Acts limit the type of monetary penalties that can be enforced under this system with a focus on court-imposed penalties. There are also complexities as to how the payments of these penalties are managed and recovered.

Recovery of monetary penalties through a court request system is no longer the only option for State and Territories, with the establishment of enforcement bodies in all jurisdictions.

In 2013, New South Wales (NSW) introduced amendments to its *Fines Act 1996* to enable requests for interstate fine enforcement between enforcement agencies and recovery of a broader range of monetary penalties, including both court-imposed penalties and infringement notices.

The amendments to the *NSW Fines Act 1996* only apply where a State or Territory has passed legislation to become a participating jurisdiction for the purpose of enforcement of interstate fines. Other states are yet to apply reciprocal arrangements to legislation. This is an opportunity for Tasmania to become part of the framework and allow more monetary penalties to be recovered.

The Bill introduces a reciprocal enforcement scheme along the lines of the scheme established in the NSW fines enforcement legislation. The proposed amendments reflect the NSW scheme in requiring an enforcement order for interstate fines to be issued only where a person has a relevant connection with Tasmania, such as being a resident or having a Tasmanian motor vehicle licence. The fines can then be enforced using the same enforcement actions that apply to Tasmanian monetary penalties, excluding imprisonment.

Amounts paid to the Director in respect of interstate fines would firstly be paid toward Tasmanian enforcement costs; secondly, toward any outstanding Tasmanian monetary penalties; and the balance, toward the interstate fine payable to the referring agency. The Director can also request an interstate fine enforcement agency to enforce a Tasmanian

monetary penalty if enforcement action has not been, or is unlikely to be, successful in satisfying the monetary penalty and the offender has a relevant connection with that other jurisdiction.

The Commonwealth *Service and Execution of Process Act 1992* provides a mechanism for enforcing fines across State and Territory borders, but it is limited to court-imposed fines. MPES has had limited success in recovering monetary penalties through this mechanism.

The Bill prevents the new scheme being applied where the monetary penalty has been registered as a fine under the Commonwealth *Service and Execution of Process Act 1992*. In the absence of reciprocal enforcement through enforcement agencies or a court request system in all jurisdictions, the Commonwealth *Service and Execution of Process Act 1992* maintains an option for enforcement of some monetary penalties in other jurisdictions.

Exclusion of these fines from the new reciprocal scheme is consistent with the NSW framework, which acknowledges that a reciprocal enforcement scheme for interstate fines that are court imposed already exists as an option under the Act.

The Bill also makes a minor amendment to section 115, to clarify that the reference to 'Commissioner' in this section is a reference to the Commissioner of Police. This is required as, under section 3 of the Act, the term 'Commissioner' is defined as meaning a Commissioner within the meaning of the *Victims of Crime Assistance Act 1976*.

The Bill also establishes a mechanism for the electronic service of documents to provide efficiencies in the administration of the Act. Electronic service of documents is an area that is being increasingly explored and used in a range of areas, particularly in a post COVID-19 environment, and provides for greater efficiency.

The Bill also makes amendments to the Act that strengthen protections for MPES staff who are lawfully performing their duty and inserts a power for the Commissioner of Police to provide to the Director information relevant to assessing the risk to the safety of enforcement officers in the performance of their duties.

Further to this, the amendments clarify that it is an offence to obstruct, threaten, use abusive language or instigate or incite another person to obstruct, threaten or use abusive language to either an enforcement debtor or the Director in the execution of their duty, when lawfully performing their duty or in the exercise of a public duty or authority. The current provisions do not include the Director.

The amendments also clarify that the Director, Monetary Penalties Enforcement Service is taken to have satisfied the requirement to publish an annual report on the operation of the Monetary Penalties Enforcement Service if it is included in the Department's annual report for that year.

The Bill increases the maximum amount which may be deemed uncollectable by the Director for a single monetary penalty to \$50,000 (or a higher amount if prescribed by the Regulations) if certain existing criteria in section 109 are met. For example, if the Director is satisfied that the enforcement debtor is deceased, or the enforcement debtor is a corporation within the meaning of the *Corporations Act 2001* (Cth) and is in liquidation or has been deregistered under the *Corporations Act 2001* (Cth).

The Bill also permits the Director to deem the costs incurred by enforcing an interstate fine as uncollectable.

In addition, the Bill amends section 117 of the Act. This section currently requires the Criminal Injuries Compensation Commissioner to deduct from any award of compensation made under the *Victims of Crime Assistance Act 1976* any amount owed to the Director. Currently the deduction is mandatory.

The Supreme Court case *Jordan v Criminal Injuries Compensation Commissioner*

Neasey [2018] TASFC 10 identified that the current provision is inconsistent with Section 6B(1)(a) of the *Victims of Crime Assistance Act 1976*, which provides that the Commissioner 'may' deduct any pecuniary penalty imposed on a person from an award of compensation to that person under Act.

The Bill amends section 117 to provide that the deduction is discretionary. This removes the inconsistency between the two Acts and allows the Commissioner to consider any relevant matters, including hardship, in determining whether to make a deduction from an award of compensation.

I want to thank all those who made submissions during the consultation process on this Bill. I particularly note the advocacy around ensuring that persons impacted by redirection of money owing orders are not subjected to unreasonable financial hardship.

In response to the public consultation feedback, the Bill was amended to ensure that an enforcement debtor can apply for the cancellation or variation of a redirection of money owing order where that order was causing them unreasonable hardship and that the Director, Monetary Penalties Enforcement Service is to have regard to any relevant evidence of an enforcement debtor's circumstances when making a redirection of money owing order.

Following the introduction of the Bill, I have considered further feedback from Members and stakeholders. In response, I will be moving a number of House amendments to strengthen the safeguards in the Bill. These amendments relate to redirection of money owing orders particularly where those orders relate to money held in an account with an authorised deposit-taking institution, automated decision-making, electronic service and the Director's power to require information and documents. I will speak to those amendments in detail when they are moved.

In conclusion, Honourable Speaker, this Bill makes amendments to the *Monetary Penalties Enforcement Act 2005* to enhance the administration and enforcement of Tasmanian monetary penalties and to provide additional safeguards and review mechanisms within the system.

I commend the Bill to the House.