

## CLAUSE NOTES

### ***Monetary Penalties Enforcement Amendment Bill 2026***

#### **PART 1 - PRELIMIARY**

**Clause 1: Short Title**

This clause provides that, once passed, the Bill will be cited as the *Monetary Penalties Enforcement Amendment Act 2026*.

**Clause 2: Commencement**

This clause provides for the amendments, except those defined in subsection 2(2) to commence on a day to be proclaimed.

Section 2(2), section 1 (short title) and Part 3 are taken to have commenced on 28 April 2008.

#### **PART 2 – MONETARY PENALTIES ENFORCEMENT ACT 2005 AMENDED**

**Clause 3: Principal Act**

This clause provides that the principal Act being amended is the *Monetary Penalties Enforcement Act 2005*.

**Clause 4: Section 54 amended (Administrative sanctions)**

Amends section 54 of the Act by removing the publication of the enforcement debtor's name and monetary penalty as an administrative sanction.

**Clause 5: Section 65 repealed**

Repeals section 65 which removes the publication of the enforcement debtor's name, address, drivers licence and monetary penalty as an administrative sanction.

**Clause 6: Section 84 amended (Issue of order for redirection of money owing)**

Amends section 84 of the Act to require the Director, Monetary Penalties Enforcement Service to serve a copy of an order for redirection of money owing on the enforcement debtor as soon as practicable after issuing.

**Clause 7: Section 85 amended (Director may cancel or vary**

### **Redirection of money owing orders)**

Amends subsection (2)(c) to extend the grounds to which an enforcement debtor can apply for a redirection of money owing order to be varied or cancelled to include a ground that the order is causing the applicant unreasonable hardship.

Amends subsection (4)(c) to explicitly include that the Director may cancel or vary the order to redirect money owing on the basis that it is causing the applicant unreasonable hardship.

### **Clause 8: Section 86 amended (When Director may issue order for redirection of earnings)**

Amends section 86 by inserting (1)(a) and (b) and section (1A), which clarifies that the Director may issue an order for redirection of amounts payable to the enforcement debtor to the employer of an enforcement debtor or a person who is liable to make payments to an enforcement debtor for the provision of services, which includes self-employed persons that are contracted to receive payment from a third party.

### **Clause 9: Section 90A inserted**

Inserts a new section 90A into the Act. This provision requires the enforcement debtor and their employer to notify the Director, Monetary Penalties Service of any significant change to their employment which might affect the redirection of earnings order within 14 days of that change to employment.

### **Clause 10: Section 94 amended (Employers not to disclose information, &c. )**

Section 94 is amended by inserting subsection (c) and section (1A) which provides that persons who are liable to make payments to an enforcement debtor for the provision of services by the enforcement debtor are not to directly or indirectly disclose or communicate to another person any information about the financial affairs of the enforcement debtor that is disclosed or obtained under this Division.

### **Clause 11: Sections 99A and 99B inserted**

Section 99A requires the Director, Monetary Penalties Enforcement Service to have regard to any evidence before them of the enforcement debtors' financial circumstances in deciding whether to issue a redirection of money owing order.

Section 99B places responsibilities on an ADI, in response to being issued with a redirection of money owing order, to deduct the amount of money detailed in the order within 2 days of the order being served and the accounts to which these deductions may be made.

**Clause 12: Section 101 amended (Offence of obstructing enforcement officer)**

Section 101 is amended to include 'the Director', with the effect that the offences under the section apply equally to enforcement officers and the Director.

**Clause 13: Part 9A inserted**

Inserts Part 9A into the Act to allow for interstate fine enforcement.

Under this Part the Director, Monetary Penalties Enforcement Service is given power to make an order (an *interstate fine enforcement order*), at the request of the originating jurisdiction, for the enforcement of a fine incurred in that jurisdiction against a person with a relevant connection to Tasmania. The interstate fine enforcement order has the same effect, with some modifications, to an enforcement order made in respect of a Tasmanian monetary penalty. Any money recovered in Tasmania is applied, firstly towards payment of Tasmanian enforcement costs and enforcement orders and the remainder to payment of the interstate fine.

The scheme will not apply where a fine has been registered under Part 7 of the *Service and Execution of Process Act 1992* of the Commonwealth.

The Part also allows for a request for enforcement of a Tasmanian monetary penalty in another jurisdiction by the Director, Monetary Penalties Enforcement Service. It provides for arrangements with other jurisdictions as to the payment of amounts recovered in those jurisdictions in the enforcement of Tasmanian monetary penalties.

### *Division 1 – Interpretation*

Inserts a number of definitions to aid interpretation of the Part, including ‘interstate fine’, ‘interstate fine enforcement order’ and ‘Tasmanian enforcement order.’

This Division also provides that a function of an originating jurisdiction (the jurisdiction in which the monetary penalty was incurred) under this Part can be exercised by an interstate fine enforcement authority for an interstate fine or a body or person authorised by the Director, Monetary Penalties Enforcement Service to exercise the function on behalf of the originating jurisdiction.

Inserts section 108B which establishes the definition of a ‘relevant connection with a jurisdiction’ for the purpose of issuing an interstate fine enforcement order. This includes the offender being resident in the jurisdiction or holding a licence for a motor vehicle in that jurisdiction.

### *Division 2 – Enforcement of interstate fines in Tasmania*

Inserts section 108C to allow the Director, Monetary Penalties Enforcement Service the discretion to make an interstate fine enforcement order under certain conditions.

Inserts section 108D which allows the provisions of the Act to apply to the interstate fine enforcement order except those relating to imprisonment.

Inserts section 108E which establishes when and how an originating jurisdiction can request an interstate fine enforcement order to be issued by the Director, Monetary Penalties Enforcement Service.

Inserts section 108F which defines the information that must be provided by the originating jurisdiction in order for the Director, Monetary Penalties Enforcement Service to issue an interstate fine enforcement order.

Inserts section 108G which defines when and how a request for an interstate fine enforcement order can be amended or withdrawn.

Inserts section 108H to allow the Director, Monetary Penalties Enforcement Service, in certain circumstances, to amend or withdraw an interstate fine enforcement order.

Inserts section 108I to define the effect of amendment or withdrawal of an interstate fine enforcement order.

Inserts section 108J which provides the Director, Monetary Penalties Enforcement Service a power to cease enforcement of an interstate fine enforcement order.

Inserts section 108K which provides for regulations to prescribe the costs for enforcement of interstate fine enforcement orders.

Inserts section 108L, which defines how money recovered through an interstate fine enforcement order will be applied: firstly to the costs of enforcement of the order; secondly to any amount payable under a Tasmanian enforcement order and then towards the interstate fine. This section also allows for arrangements to be entered into between the Director, Monetary Penalties Enforcement Service and an interstate fine enforcement agency for payment.

*Division 3 – Enforcement of Tasmanian enforcement orders in participating jurisdictions.*

Inserts section 108M, authorising the Director, Monetary Penalties Enforcement Service, subject to certain conditions, to request enforcement of a Tasmanian enforcement order in another participating jurisdiction, except where the monetary penalty has been registered as a fine under Part 7 of the *Service and Execution of Process Act 1992* of the Commonwealth.

Inserts section 108N which requires the Director, Monetary Penalties Enforcement Service to inform the jurisdiction where the request for enforcement has been made of any payment made in Tasmania against that monetary penalty.

*Division 4 – Relationship with Part 9*

Inserts 108O which provides that interstate fine enforcement is in addition to, and does not derogate, from reciprocal enforcement under Part 9 of the Act.

**Clause 14:**

**Section 109 amended (Amount may be deemed to be uncollectable)**

Amends section 109(2) of the Act to increase the maximum amount that the Director, Monetary Penalties Enforcement Service may deem uncollectable to \$50,000 or higher if prescribed by the Regulations.

Inserts section 109(3A) of the Act to allow the Director, Monetary Penalties Enforcement Service to deem a monetary penalty uncollectable in circumstances where the enforcement debtor is deceased, or is a corporation that is either in liquidation or has been deregistered.

Inserts section 109(4A) of the Act to allow only the costs of enforcement of an interstate fine to be deemed uncollectable.

**Clause 15: Section 110 substituted**

Substitutes section 110 to allow the Director, Monetary Penalties Enforcement Service to:

- Approve an information system that is accessible and operates on a continuous basis to:
  - communicate electronically with courts, authorities, debtors, or other persons;
  - allows debtors to manage their accounts online, including updating their details, making payments or creating payment plans;
  - create, store, process, and issue the Director's, Monetary Penalties Enforcement Service decisions under the Act (except certain excluded decisions);
  - enable the automatic generation of those decisions mentioned in section 110(1)(d) or (e) in accordance with approved criteria or operational settings.
- Establish rules for how the system operates, including:
  - When automatic-decision making is allowed;
  - Security and who can access the system;
  - Record-keeping, tracking and auditing;
  - how people are notified about decisions or messages from the system.

**Clause 16: Section 115 amended (Information from Commissioner of Tasmania Police)**

Clarifies that these provisions relate to responsibilities of the Commissioner of Tasmania Police, not the Victims of Crime Commissioner as referenced in section 117 of the Act.

Inserts section 115(1)(b) of the Act which allows the Commissioner of Police to disclose to the Director, Monetary Penalties Enforcement Service information about who a debt is, or may be owed, under this Act, for the purpose of identifying or locating that person.

Amends section 115(2) of the Act to allow the Commissioner of Police to share certain information with the Director, Monetary Penalties Enforcement Service if it is relevant to keep enforcement officers safe while they perform their role. These amendments clarify that this information can include:

- information about threats, violence, or aggressive behaviour involving the person, even if no charges were laid;
- whether the person, or someone at the same address, has been issued or refused a firearms licence.

Amends section 115 to in addition to providing the person's address, the Commissioner of Police may also provide the Director, Monetary Penalties Enforcement Service with the person's telephone number, contact details or email address.

**Clause 17: Sections 116A and 116B inserted**

Inserts section 116A to provide the Director, Monetary Penalties Enforcement Service the power, for the purposes of administering and enforcing the Act, to require any person to provide information in that person's knowledge or a document about a specified matter within a specified reasonable period and a specified reasonable way.

Inserts 116B to allow for the electronic service of documents in certain circumstances.

**Clause 18: Section 117 amended (Deductions from awards made under the *Victims of Crime Assistance Act 1976*)**

Amends section 117 of the Act to make the amount to be deducted from any award under the *Victims of Crime Assistance Act 1976* by the Victims of Crime Commissioner to repay debts to the Director, Monetary Penalties Enforcement Service discretionary, consistent with section 6B(1)(a) of the *Victims of Crime Assistance Act 1976*.

**Clause 19: Section 121 substituted**

Amends section 121 by inserting section 121(2) which provides that the requirement to publish an annual report is taken to be satisfied if it is included in the Department's annual report for that year.

**PART 3- MONETARY PENALTIES ENFORCEMENT ACT 2005 FURTHER AMENDED**

**Clause 20: Principal Act**

This clause provides that the principal Act being amended is the *Monetary Penalties Enforcement Act 2005*.

**Clause 21: Section 3 amended (Interpretation)**

Inserts the following definition into the Act:

'ADI' means an authorised deposit-taking institution and includes a co-operative.

**Clause 22: Section 98 amended (Order to redirect debt owed to enforcement debtor)**

Inserts 'ADI' into Section 98 in addition to 'a person' to clarify that a redirection of money owing order can be made to a person or an ADI.

This amendment needs to commence retrospectively from the commencement of the Act (28 April 2008) to ensure that redirections from bank accounts issued from that date by the Monetary Penalties Enforcement Service are not challenged.

**Clause 23: Section 98A inserted**

Inserts section 98A into the Act to provide that money held in an account by an enforcement debtor in an ADI is

taken to be a debt owed to the enforcement debtor and allow a redirection order under section 98 to apply to bank accounts as was originally intended by the Act.

This amendment needs to commence retrospectively from the commencement of the Act (28 April 2008) to ensure that redirections from bank accounts issued from that date by the Monetary Penalties Enforcement Service are not challenged.

#### **PART 4 – REPEAL OF ACT**

**Clause 24: Repeal of Act**

This clause provides for the automatic repeal of the Amendment Act one year after commencement, as the amendments are incorporated into the relevant amended legislation.