COMMUNITY
LEGAL CENTRES
TASMANIA

17 April 2026

Department of Justice
Office of the Secretary
GPO Box 825
Hobart TAS 7001

*via email: haveyoursay@justice.tas.gov.au*

To the Department of Justice,
**Re: *Monetary Penalties Enforcement Amendment Bill 2026***

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Community Legal Centres Tasmania (CLC Tas) welcomes the opportunity to provide comment on the *Monetary Penalties Enforcement Amendment Bill 2026* ('the Bill').[1] We welcome the Tasmanian Government's intention to improve the efficiency and effectiveness of the collection of court fines, infringement notices and compensation for victims of crime in Tasmania. Our submission seeks to address three issues, namely external review of decision-making, the lack of alternatives to payment of monetary penalties and the ability of banks to deduct funds from a debtor's account/s. Finally, we call for a review of the way in which Tasmanians are fined.

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located through Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

**BACKGROUND**

Over the last five years the collection rate for infringement notices and court fines to the Monetary Penalties and Enforcement Service (MPES) has dropped. Whilst most infringement notices and court fines are being paid (around 9 out of 10) the collection rate has dropped from 115 per cent to 88 per cent.[2]

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[1] CLC Tas would like to acknowledge those persons and organisations who gave freely of their time in assisting with our submission.

[2] The 115 per cent is the result of debts owed in previous years being paid, hence the greater than 100 per cent amount.

**Percentage of Fines/Infringement Notices paid**

| | 2020-21 | 2021-22 | 2022-23 | 2023-24 | 2024-25 |
|---|---|---|---|---|---|
| **Infringement Notices** | 115% | 100% | 92% | 91% | 88% |
| **Court Fines** | 139% | 117% | 116% | 93% | 101% |
| **Collection rate of all debt*** | 115% | 95% | 100% | 83% | 88% |

Source: Department of Justice Annual Reports *Our focus is the two main penalties imposed.

In circumstances where a person fails or refuses to pay a fine/infringement notice, the MPES has the power to take enforcement action and impose sanctions, including a direction that their driver's licence or vehicle registration be suspended. According to the Department of Justice, enforcement orders for unpaid monetary penalties are usually issued 35 days after the MPES receives a referral and if the amount remains unpaid then a sanction is applied after a further 21 days have elapsed.[3]

Over the last five years, the number of sanctions imposed for failure to pay a fine has almost doubled (84 per cent increase). The number of people whose driver's licence has been suspended has increased by 76 per cent and the number of people whose vehicle registration has been suspended has increased by 650 per cent.

In January 2023, the State Government directed MPES to abolish the public naming of people who owe debts ('name and shame').[4] Instead of naming and shaming, the data suggests that MPES is now suspending people's drivers' licences and vehicle registrations.

**No. of sanctions imposed**

| | 2020-21 | 2021-22 | 2022-23 | 2023-24 | 2024-25 |
|---|---|---|---|---|---|
| **Suspension of Drivers Licence** | 7770 | 10,587 | 10,764 | 13,968 | 13,709 |
| **Suspension of Vehicle Registration** | 349 | 713 | 494 | 1099 | 2,620 |
| **Publication of Name - 'Name and Shame'**** | 634 | 1437 | 670 | | |
| **No. of sanctions total*** | 8774 | 12,803 | 11,962 | 15,092 | 16,344 |

Source: Department of Justice Annual Reports *There are other less-utilised sanctions imposed by MPES. **Use of this sanction ceased on 19 January 2023

[3] Department of Justice, *Annual Report 2024-25* (September 2025) 48. As found at https://www.justice.tas.gov.au/__data/assets/pdf_file/0007/833425/Department-of-Justice-Annual-Report-2024-25_web-accessible.pdf

[4] See, for example, Adam Holmes, Tasmania's 'name and shame' fines list includes full addresses, but the premier says no more', *Australian Broadcasting Corporation*, 18 June 2023. As found at https://www.abc.net.au/news/2023-01-18/tas-name-and-shame-fines-publish-address-tasmania-/101868474

The data also highlights a significant increase in the number of people seeking to pay by instalment rather than in full, with a 39 per cent increase over the last five years.

| | **2020-21** | **2021-22** | **2022-23** | **2023-24** | **2024-25** |
|---|---|---|---|---|---|
| **No. of people seeking to pay in instalments** | 15,972 | 16,457 | 19,850 | 19,953 | 22,218 |

Source: Department of Justice Annual Reports

In summary, there has been a significant increase in the number of people who have failed to pay fines/infringement notices and as a result their drivers' licences and vehicle registrations have been suspended. There has also been a significant increase in the number of people seeking to pay fines in instalments.

**The Bill**

Section 84 of the Act provides MPES with the power to issue an order on an employer to redirect employee earnings so that a debt is paid. The proposed clause 99A of the Bill will ensure that the Director consider the financial circumstances of the debtor including their ability to satisfy the debt, their necessary living expenses and any other liabilities:

> ***99A. Director to have regard to enforcement debtor's financial circumstances***
> *In deciding whether to issue a redirection of money owing order under section 84(2)(b) to redirect all or part of a debt owed to an enforcement debtor, the Director must consider any evidence before the Director that is relevant to –*
> *(a) the enforcement debtor's ability to satisfy the debt; and*
> *(b) the enforcement debtor's necessary living expenses; and*
> *(c) any other liabilities of the enforcement debtor.*

We support the proposed clause 99A because it will promote transparency of decision-making, allowing MPES to improve its decision-making by ensuring that the financial circumstances of the debtor are considered as well as supporting the debtor to better understand how MPES arrived at its decision.

However, we strongly recommend that the Act include an additional safeguard, namely the ability of the debtor to challenge the MPES decision before an independent decision-maker. The inclusion of an external review should include the amount that is ordered to be redirected pursuant to clause 99A above but also apply to sections 29 and 33 of the Act which allow a debtor to seek a variation of payment conditions and the imposition of a Monetary Penalty Community Service Order (MPCSO). In New South Wales for example, a Hardship Review Board has the power to review payment plans, community service orders and the writing-off of fines.[5] Given that the MPES decision is an administrative decision, we believe that TASCAT with its accessible, affordable and expedient decision-making would be an appropriate independent decision-maker.

[5] Section 101B of the *Fines Act 1996* (NSW). In Queensland, the imposition of a community service order can be reviewed: section 32S of the *State Penalties Enforcement Act 1999* (Qld).

- ***Alternative Orders***

The Act currently provides that offenders must pay their monetary penalty or if impecunious are referred to Community Corrections to be assessed for a Monetary Penalty Community Service Order (MPCSO).[6] Whilst we support the inclusion of a MPCSO as an alternative to payment of monetary penalties, we believe that treatment orders should also be made available to disadvantaged debtors as a means of finalising the debt. In New South Wales and Victoria for example, debtors ordered to undertake a Work and Development Order (NSW) or Work and Development Permit (Vic) can attend drug and alcohol programs, educational, vocational or life skills courses, receive medical or mental health treatment or attend counselling as an alternative to payment of monetary penalties.[7]

Although the Community Corrections website notes that debtors "may complete some of their hours by attending approved rehabilitative and educational courses or programs",[8] none of these programs are available if a debtor has the financial means to pay the monetary penalty in full or in instalments,[9] with the Department of Justice noting that even "if a person's only source of income is welfare benefits, then payments of $25 a fortnight are usually approved".[10] The lack of alternative options for the disadvantaged is highlighted in the Department of Justice's Annual Report which reported that over the last three years, 7 offenders in Tasmania (0.001) finalised their debts through undertaking community service whilst 358,946 debts were finalised in other ways, mostly by repayment of the monetary penalty.[11]

The paucity of alternative options in Tasmanian can be contrasted with Victoria and NSW where eligibility for a Work and Development Order (NSW) or Work and Development Permit (Vic) is based solely on a debtor having a monetary penalty and being disadvantaged due to having a mental or intellectual disability, disorder or illness; a drug or alcohol addiction; experiencing homelessness; acute financial hardship; or being a victim-survivor of family violence.[12]

We strongly recommend the adoption of the Victorian and NSW models which provide for a much wider range of alternative options for repayment of monetary penalties and where the focus is on addressing the underlying cause/s of the offending rather than the offender's ability to pay.

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[6] Sections 31-33 of the *Monetary Penalties Enforcement Act 2005* (Tas).

[7] Section 23B of the *Fines Act 1996* (NSW). Regulation 23B and Schedule 1 of the *Fines Regulations 2025* (NSW). In Victoria, see Part 2A of the *Fines Reforms Act 2014* (Vic). Also see NSW Government, 'Work and Development Order (WDO) sponsors'. As found at https://www.nsw.gov.au/money-and-taxes/fines-and-fees/advocates-and-sponsors/work-and-development-order-wdo-sponsors; Fines Victoria, 'Work and Development Permit (WDP)'. As found at https://online.fines.vic.gov.au/Support/Work-and-Development-Permit (accessed 14 April 2026).

[8] Department of Justice, 'About Community Service'. As found at https://www.justice.tas.gov.au/communitycorrections/orders/community-service/about-community-service-orders (accessed 14 April 2026). South Australia is another jurisdiction that provides offenders owing monetary penalties with access to treatment programs including alcohol, drug or gambling treatment programs: section 15(7) of the *Fines Enforcement and Debt Recovery Act 2017* (SA); regulation 3A of the *Fines Enforcement and Debt Recovery Regulations 2018* (SA).

[9] Section 31 of the *Monetary Penalties Enforcement Act 2005* (Tas).

[10] Department of Justice, *Annual Report 2024-25* (September 2025) 47.

[11] Ibid.

[12] Section 10AA(2) of the *Fines Reforms Act 2014* (Vic).

- ***Obligation of authorised deposit-taking institutions***

Clause 99B of the Bill obliges banks to deduct money from an offender's bank account to pay a monetary penalty. The clause requires banks to deduct the money within 2 days of being served with the order and can choose which of the offender's accounts (including lesser amounts from multiple accounts) to ensure that the debt is repaid.

> ***99B. Obligations of authorised deposit-taking institutions***
> *(1) This section applies to an ADI that has been served by the Director with a redirection of money owing order.*
> *(2) An ADI must deduct from the account held by the enforcement debtor, in respect of whom the redirection of money owing order has been issued, the amount specified in the order.*
> *Penalty: Fine not exceeding 20 penalty units.*
> *(3) An ADI must pay the money deducted under subsection (2) to the Director within 2 days after being served with the redirection of money owing order.*
> *Penalty: Fine not exceeding 20 penalty units.*
> *(4) Unless required under a redirection of money owing order to deduct an amount from a particular account held by the enforcement debtor with the ADI –*
> > *(a) the ADI may choose the account from which to deduct the amount; and*
> > *(b) the ADI may deduct the amount by deducting lesser amounts from 2 or more accounts held by the enforcement debtor.*

Anecdotally, our lawyers have had cases in which clients have sought the repayment of debts by issuing a garnishee order against the debtor's bank account/s. Repayment of the debt has been refused by the bank on the basis that the exact amount of money required to pay the debt in full is unavailable. We recommend that flexibility be included in clause 99B so that the bank can make multiple deductions of the same bank account/s over a longer period until the debt is repaid in full. Whilst not exactly on point, section 102 of Queensland's *State Penalties Enforcement Act 2019* provides guidance:

> *If the financial institution is prevented… from deducting from the account the full amount of the recoverable amount, it must deduct as much of the amount, if any, that it may deduct...*

Expanding on the Queensland model, thought should be given to a requirement that the bank be provided with the ability to continue to redirect funds from the debtor's account until such time as the debt is paid in full.

**The unfairness of Tasmania's fining system**

We also take this opportunity to repeat our long-held position that the imposition of fines in Tasmanian courts often results in both inequality and unfairness. This is the outcome of laws requiring courts to impose a fine that is either a fixed-sum or mandates a minimum amount (such as for drink-driving offences) with no discretion available to reduce the amount of the fine. Almost two decades ago, the then Chief Justice of Tasmania concluded that in such circumstances, the fine is 'draconian' whilst a significant number

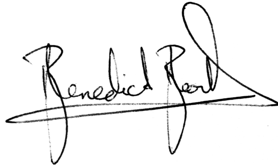
of New South Wales Supreme Court judges have similarly found that the imposition of fines could be 'disproportionately severe'.[13]

In other cases, where the court is granted discretion, the courts have adopted a 'going rate' fine for particular offences with courts able to make some adjustment downwards if the offender is unable to pay, but where no scope exists to increase a fine on the grounds of the affluence of the offender.[14] The failure to ensure that the fine has a similar punitive bite means that the sentencing principle of equal impact is not met. When two offenders pay the same fine but one has a higher income the fine cannot have the same effect. For wealthy offenders the fine may be too easily paid and hence no real punishment or even seen as a 'licence fee' to continue offending.

Whilst outside the scope of this Bill, we strongly recommend that the Tasmanian Government consider reviewing the way in which fines are imposed. In our opinion, the introduction of fines proportionate to the offender's income will lead to fairer outcomes and increased community support in the sentencing system.

If we can be of any further assistance, please do not hesitate to contact us.

Yours faithfully,



Benedict Bartl
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**Community Legal Centres Tasmania**

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[13] Tasmanian Law Reform Institute, *Sentencing – Final Report* No 11 (June 2008) para. 3.9.18. As found at http://www.utas.edu.au/__data/assets/pdf_file/0004/283810/completeA4.pdf (accessed 23 September 2020). Also see Katherine McFarlane and Patrizia Poletti, *Judicial Perceptions of fines as a Sentencing Option: A Survey of NSW Magistrates* (Monograph 1, NSW Sentencing Council, August 2007) at 31 where just under half of the judges surveyed in New South Wales (48 per cent) noted that the fine for socially disadvantaged offenders was disproportionately severe.
[14] Andrew Ashworth, Sentencing and Criminal Justice (Cambridge University Press, 2010) 99, 329.