

Fisheries (Amendment) Bill 2012
First Reading approved

3. Mr Turner to move:

That the Fisheries (Amendment) Bill 2012 be read a first time.

The President: We turn now to the Fisheries (Amendment) Bill. I call on Mr Turner to take the First Reading.

Mr Turner: Thank you, Madam President.

I would at this point like to mention that later on, if Members are so minded to support me, I would be requesting the suspension of Standing Orders to enable further readings of the Bill to take place today. I will explain and set out the reasons for that after I have concluded this First Reading.

Mr Braidwood: It depends how many queenies and fish you can...!

Mr Turner: Now, a little bit of background here. The Fisheries Bill was first printed in its green form in 2010, and it seemed to take an absolute age to get through the process and eventually get Royal Assent. I think, after it had completed its passage through the branches, it was quite some time before the Bill was actually granted Royal Assent and there were a few technicalities that were picked up by the Ministry of Justice (MoJ). So I will explain now how we have come to this Amendment Bill, because it has arisen out of those issues that they were picked up when the Bill went across the water.

In the few days prior to the announcement of Royal Assent of this Bill, it was notified by the MoJ that two particular sections of the Fisheries Act were not Human Rights compliant. Both of these non-compliant sections were a straight lift from the Inland Fisheries Act 1976, which was subjected to a Human Rights audit prior to the introduction of the Human Rights Act 2001. The particular provisions were not highlighted as requiring amendment at that time.

Following discussions between the legislative drafter at our own AG's Chambers and the Ministry of Justice, it was agreed that the Department would give an undertaking not to implement those particular provisions within the Bill until the appropriate amendments had been made.

The minor Amendment Bill introduces a defence into section 28 and provides for independent scrutiny in respect of section 81.

Now, section 28 is to do with, in particular, the possession of certain equipment, for example diving suits, snorkel mask or any diving equipment, and it was deemed that you would be committing an offence if you were in the vicinity. There was no provision in there for having a lawful excuse. So if you were living on the bank of a river, for example, you would be committing an offence and 'that's the end of it'. There was no provision in there and that was picked up by the MoJ. Further on in the Bill, there was an issue with regard to forfeiture of such equipment and the disposal.

So I am happy to discuss any questions Members would have, but that is the principle behind this Amendment Bill for First Reading.

With that, I beg to move the Bill be read a first time.

Mr Downie: I beg to second, Madam President, and reserve my remarks.

The President: The Hon. Mr Callister.

Mr Callister: Thank you, Madam President.

I just want to ask if this Bill has been brought forward in response to a recent local case and if so, are there some details we could have of that?

The President: The mover to reply.

Mr Turner: Thank you, Madam President.

This issue was rumbling on prior to that. As I said, it was something that was picked up when the Bill went over to the MoJ for the Royal Assent procedure.

It is unfortunate that some of these issues were not ironed out, because I understand that draft versions of these Bills are put through the MoJ before they even get off the first base. However, it was not picked up and subsequently it was.

It is interesting, the time that this Bill has taken and it was certainly one of my... It is quite apt that it is here today on my last sitting of this term, because this was one of the major pieces of work I was involved with at DAFF and then DEFA when it was formed. It was quite a milestone for Fisheries to be able to consolidate the legislation, because previously they had two: they had the Sea Fisheries legislation and as the Hon. Member, Mr Downie will recall from his time as Minister Department; and they also had the Inland Waters. What they have done is brought it all together.

So there was considerable amount of work going on in this Bill and I think it was just something that was overlooked because of the more serious issues that the Bill deals with, such as our territorial waters and the wider sea fishing industry, and maybe this, what is effectively... well, completely a domestic issue of inland waters was maybe overlooked.

It does not have anything... it has not been brought forward just because of that recent local case. It was already in the pipeline as being flagged up.

So I hope I have answered Mr Callister's query there and I beg to move.

The President: The motion is that the Fisheries (Amendment) Bill 2012 be read the first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.