

5.1. European Union (Amendment) Bill 2014 – Second Reading approved

Mr Watterson to move:

That the European Union (Amendment) Bill 2014 be read a second time.

The Speaker: Item 5, Bills for Second Reading.

First is the European Union (Amendment) Bill, and I call on the mover, Mr Watterson.

Mr Watterson: Mr Speaker, I would like to start by explaining that this Bill has been given to one of this House's biggest Eurosceptics. (*Laughter and interjection*) The burgeoning bureaucracy of Europe and its mere passing acquaintance with good governance and financial prudence are simple but compelling reasons for the Isle of Man to have no more than a trading relationship with the European Union.

However, the European Union exists and the Isle of Man recognises its existence, and this Bill accepts that fact and merely updates what that body is that the Isle of Man deals with. However, let me quite clear that it does not change our relationship with the European Union, our Protocol 3 arrangement or any other practical arrangements that are in place. It primarily adds Croatia to the list of nations forming the European Union. It also adds the Irish Protocol to list of treaties. The Irish Protocol basically just clarifies certain issues that arose out of the Treaty of Lisbon, but it does not change the relationship between the EU and its member states.

Because the institutions of the EU are essentially matters for the EU, we discussed whether primary legislation should be required every time a new country enters the European Union. Bills, as Members appreciate, take a long time to draft and consult upon etc, and Government felt that with such an ambitious legislative timetable, these Bills do not serve to add value to our statute books. It is therefore proposed that the Council of Ministers can in future bring an order to Tynwald updating references to the list of EU treaties, instead of using primary legislation.

I should stress, for the avoidance of doubt, that the power for Council to make such an order is strictly limited and it would not allow any amendments to the 1973 Act involving any change to Protocol 3. The Protocol itself is not included in the list of EU treaties, but is referred to separately in the 1973 Act. I can also assure this House that any fundamental change in the Island's relationship with the European Union would be subject to full and proper consultation.

The Island has the power to include EU directives straight into Manx law. Section 2A requires that an order must be laid at one sitting in draft and again finally at the next sitting, and Members may have noticed this in respect of the recent updates to the Island's intellectual property legislation.

The Council of Ministers felt that this was an unnecessarily bureaucratic provision which leads to the production of far more paper than is necessary as the order has to be produced in two successive months. It is proposed that in future this will go down the usual route of being placed on the Order Paper and approved by Tynwald to give it effect.

I would like to thank Mr Henderson and Mr Karran for the interest that they have shown in this Bill at the consultation stage and I hope that my comments will provide the assurances that they have sought.

Mr Speaker, I beg to move that the European Union (Amendment) Bill 2014 be read for a second time.

The Speaker: Hon. Member, Mr Gawne.

Mr Gawne: Gura mie eu, Loayreyder.

I beg to second and reserve my remarks.

The Speaker: Hon. Member for Onchan, Mr Karran.

Mr Karran: Vainstyr Loayreyder, I would just like to say that I hope that now we are finally getting to the issue of getting more legislation on secondary legislation than on primary legislation, allowing for the problems that we have got constitutionally with the adjacent isle, and I think that any moves on that front have to be supported as far as that issue is concerned. I just feel that it is good to see that there is more flexibility to start doing this. It has only taken a decade to actually follow up what some of us have been on about for ages to get that sort of flexibility for the Island.

I hope that the Council of Ministers will be looking at this way of using secondary legislation in order to sort out the fundamental problem of the Royal Assent being on the advice of a foreign government and not on the advice of the elected Government, even if I do think at times it is pretty atrocious. The fact is that the Manx Government is the representation of the people who voted on this Island and I just think that that is something that needs to be borne in mind for other legislation to give you that flexibility.

The Speaker: Hon. Member, Mr Thomas.

Mr Thomas: Thank you very much, Mr Speaker, and to the Minister for moving.

I want to agree with the Hon. Member who has just resumed his seat, but also to say that we need to make sure that we have systems in place to review the secondary legislation as well.

Going back into history, I was actually amazed to find that the Protocol 3 actually went through both Houses in one day on 31st October 1972, and so the precedent of how we deal with the EU did not start off well. I hope now that we would have proper systems in committee, in this Hon. House and in the rest of the Court, the branches of the Court, to actually make sure that we take seriously all of these orders that are going to come through from the EU and have done for 40 years.

The Speaker: I call on the mover to reply, Mr Watterson.

Mr Watterson: Thank you.

Briefly, Mr Speaker, I appreciate the Hon. Member for Onchan's support for streamlining the process. Of course, the Council of Ministers has changed a lot over the last 10 years, but certainly it represents the current thinking in there. It certainly represents my thinking; hence my willingness to move this Bill forward.

The note of caution that I bring to that is that, as Home Affairs Minister, I think it is important that we do carefully balance out the primary and secondary legislation when we are bringing in new provisions for the loss of liberty, for example, that that should go through primary legislation, rather than secondary legislation. So we do have to continually balance those out, but in principle I absolutely agree with what he says.

The Hon. Member for West Douglas, in terms of the oversight and scrutiny of secondary legislation, there are of course procedures there already within Tynwald and the Scrutiny Review Committees and obviously the process of parliamentary questioning. So there are the checks and balances in there on secondary legislation, but the same process would ultimately apply to European legislation entering the Manx statute books as others forms of secondary legislation. So Hon. Members will be no worse off in terms of their ability to scrutinise this legislation going forward.

With that, Mr Speaker, I beg to move that the Bill be read a second time.

The Speaker: Hon. Members, I put the motion that the European Union (Amendment) Bill be read for the second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.