

4.1. Copyright etc (Amendment) Bill 2013 – Council amendments agreed

Mr Skelly to move the following:

Amendments approved by the Legislative Council on 25th February 2014

Page 15, omit subsection (1).

Page 15, in subsection (2), for ‘that Act’ substitute ‘the Design Right Act 1991’.

*Page 15, in subsection (2)(a), for the definition of ‘qualifying person’ substitute —
‘ “qualifying person” means —*

(a) an individual habitually resident in a qualifying country, or

(b) a body corporate or other body having legal personality which—

(i) is formed under the law of the Island or another qualifying country, and

(ii) has in any qualifying country a place of business at which substantial business activity is carried on.’

Page 16, for subsection (4) substitute —

‘(4) In section 8 of that Act (qualification by reference to first marketing) —

(a) in subsection (1)(a), omit “who is exclusively authorised to put such articles on the market in the Island”;

(b) in subsection (2), for “requirements” substitute “requirement”;

(c) in subsection (3), for “those requirements” substitute “that requirement”; and

(d) omit subsection (4).’

The Speaker: Item 4, Consideration of Council amendments: the Copyright etc (Amendment) Bill, and I call on the mover of that Bill, Hon. Member for Rushen, Mr Skelly.

Mr Skelly: Gura mie eu, Loayreyder.

The Copyright etc (Amendment) Bill 2013 amends the Copyright Act 1991, the Design Right Act 1991 and the Performers’ Protection Act 1996, as part of the Department of Economic Development’s wider programme of intellectual property modernisation.

The Bill completed its progress through this House on 4th February this year. However, during its subsequent progress through the Legislative Council, the Bill was amended. It is therefore necessary for the House to consider those amendments.

All four amendments were proposed by the Department of Economic Development. All the amendments were made to clause 14 of the Bill and all had a single purpose. The intention of the clause is to simplify the criteria for protection of designs by making protection dependent either on where the designer or the employer is economically active or where the designs are first marketed. If the designer or employer is economically active in a qualifying country or the articles made to the design are first marketed in a qualifying country, then the design will be protected.

The clause closely mirrors a provision in the UK Intellectual Property Bill which is currently nearing the end of its progress through Parliament there. At the end of January 2014, the UK Government proposed and Parliament agreed to amendments to the clause. The amendments were a result of concerns that the clause would inadvertently give undue protection in the UK to designs by businesses based in foreign countries, even though reciprocal protection would not be available to UK businesses in those countries.

The same situation would apply in the case of the Isle of Man, should the Bill not be amended, and so it is in the interest of the Island that the amendments be made.

The first amendment omits subsection (1) of clause 14.

The second amendment amends subsection (2) of clause 14.

The third amendment substitutes a new definition of 'qualified person' in subsection (2) to ensure that businesses must have legal personality under the law of a qualifying country for their designs to receive protection on the Isle of Man.

The fourth amendment ensures that any designs protected on the basis that they were first marketed on the Island are by the qualifying person as referred to in subsection (2).

Loayreyder, I beg to move that Council's amendments be agreed and the Bill do now pass.

The Speaker: Mr Shimmin.

Mr Shimmin: I beg to second and reserve my remarks.

The Speaker: I put the question that the amendments as set out in the Order Paper approved by Legislative Council be agreed by this House. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.