

#### 4. European Union (Amendment) Bill 2014 – First Reading approved

The Acting Attorney General to move:

**The President:** We turn now to Item 4 on our Order Paper, the European Union (Amendment) Bill 2014.

I call on Her Majesty's Acting Attorney General to take the First Reading.

**The Acting Attorney General:** Madam President, thank you.

I am sure that even among the small number of us here in this Chamber, there will be quite a wide range of opinions about the merits or otherwise of the European Union and its influence on the Isle of Man. However, certain things are indisputable. The EU exists; the Island has a formal relationship with the EU through Protocol 3 to the UK's Act of Accession; and the Island is subject to certain obligations under international law by virtue of Protocol 3.

This Bill accepts those facts and recognises changes to the body that the Island has a relationship with through Protocol 3. Primarily it adds Croatia to the list of nations forming the EU by adding the accession treaty of that country to the defined list of EU treaties set out in the European Communities (Isle of Man) Act 1973. It also adds the Irish protocol to the 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 European Union are essentially matters for the EU, the Council of Ministers discussed whether primary legislation should be required every time a new country enters the EU. Bills, as Members appreciate, take a long time to draft, consult upon and pass, and the Government felt these Bills do not serve to add value to our statute books.

It is therefore proposed that Council of Ministers can in future bring an order to Tynwald seeking its approval to update the list of EU treaties instead of using primary legislation. However, it does not change our Protocol 3 relationship with the EU, or other practical arrangements that are in place.

I should stress for the avoidance of doubt that the power to make such an order is strictly limited, and any amendments to the 1973 Act involving a change to Protocol 3 would still involve a new Act of Tynwald.

Members will note that the Protocol itself is not included in the list of EU treaties, though it is referred to separately in the 1973 Act.

Madam President, I can also assure Council that any fundamental change in the Island's relationship with the European Union would be subject to proper and full consultation. As Hon. Members will know, the 1973 Act includes a power to voluntarily apply EU legislation as part of the law of the Island with any appropriate modifications, essentially using the EU legislation as a template for creating Manx legislation.

This power in section 2A of the Act is mostly used for the application of EU sanctions but it is also occasionally used for other matters. Members will have noticed this in respect of the recent updates to the Island's intellectual property legislation, where it is seen as being beneficial to bring our legislation clearly into line with that of the UK and the EU.

These orders must be laid at one sitting of Tynwald in draft, and again a following sitting where they are moved for approval before they can be made. The Council of Ministers felt that this was an unnecessarily bureaucratic provision and it needs the production of far more paper than is necessary as the order has to be produced on two successive months.

It is proposed that, in future, this will go down the normal affirmative route of requiring the approval of Tynwald for the order, as made, to have effect.

Finally, the Bill provides some legal clarification where provisions of an EU instrument are applied to the Island as they are amended from time to time – a list of persons who are subject to EU sanctions, for example.

Madam President, I beg to move that the European Union (Amendment) Bill be read for the first time.

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

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Thank you, Madam President.

The learned Attorney pointed out, of course, that the EU exists – of course, it certainly does. I think it is interesting that we are talking about unnecessary bureaucracy and the EU in the same breath. But, nevertheless, I welcome anything that is going to reduce bureaucracy.

I think what frustrates a lot of people on the Isle of Man, is the fact that the Isle of Man has to comply with so many of the arduous bits of EU legislation but then does not comply with other bits of it. I think that is something that does irritate people.

I would like to know what would happen as a general comment if the United Kingdom decided, after their referendum, to leave the European Union: what would then happen with the Isle of Man? Also, we talk about best practice in applying legislation voluntarily, and only this week the European Union have actually passed a very good piece of legislation – and that is to abolish roaming fees. But surprise, surprise it is not going to apply to the Isle of Man: instead, the Communications Commission released a document telling people how to avoid roaming fees – by turning off your phone.

So we seem to have... We apply legislation when it suits, and when there is something that is actually going to benefit the normal man in the street then we are not interested in applying it. I think that is what really irritates people: we are not in, we are not out, we are sort of hovering around in between.

Now we understand all the history to do with Protocol 3 and some of the benefits *that* brings, but it is just more of a comment really that I would hope that in doing so we could start maybe voluntarily applying some of the legislation that actually helps the average member of the public over here.

So it is more of a comment, really, I am not a fan of the European Union as a political union but as a trading organisation then clearly it has many merits in terms of business. So, again, just to repeat, the other question is what would happen to our position when the UK decides to leave the European Union?

Thank you, Madam President.

**The President:** The Hon. Member, Mr Downie.

**Mr Downie:** Thank you, Madam President.

I think basically we have to support the principles of the Bill because there has been another member country, Croatia, which has been admitted, and all we are actually doing is bringing our legislation up to date. I would not have a problem if that could be dealt with by a simple order in Tynwald: 'Here is a new country coming in'.

I think we still have to have provisions in our system. I would be a bit more concerned if a country like Turkey was given access – and I know they are currently knocking on the door – and how would we actually cope with that.

We were told only a few weeks ago when we were progressing our employment legislation, that certain countries who had not fully signed up to the European Union... people who did not have a right to work in Britain. Yet we had those nationals here on work permits.

So it makes you wonder how all this actually comes about

My own view is that the United Kingdom at the present time, I think, is in a mess because they have not got a clue who is there and who is working in the country. As we all know, we read on a daily basis, there is a black economy in certain parts of the United Kingdom where people are not making a proper contribution to their national insurance or health, or anything else, and certain people can claim benefits and other people cannot claim benefits. So it is an issue that we have got to keep an eye on.

I am all in favour of trying to make it as simple as possible, but as my hon. colleague, Mr Turner, said, as soon as you mention the European Union it becomes a very complex monster that you have to be mindful of all the time. When you actually analyse Protocol 3 we really do not get a lot out of it these days, and there could be a very good argument to say that we should be looking at another approach.

I doubt whether our exports of agricultural products mean very much compared with what they did a few years ago, and as far as customs barriers and so on are concerned most people who manufacture, manufacture for big international companies. We are no different than having aircraft components manufactured in Turkey – who are not members. In fact Third World countries manufacture now for companies within the EU and have no problem importing and exporting and so on – that is the way that the animal has been developed.

It is interesting, we are dealing with the protocol on the concerns of the Irish people on the Treaty of Lisbon. Like the Irish, they were very good at getting carve-outs; Malta is another country that has had carve-outs – particularly with VAT, and other things related to the European Union

I honestly think that Britain – and the Isle of Man to some extent – missed a trick, because we should have been in there at an early stage looking to give us a different edge. Having just spoken to a friend of mine who has come back from Tenerife on holiday, they are part of the European Union but they do not have any air passenger duties to pay, it is duty free – so from a holiday point of view they are extremely competitive and they have developed their own little niche in all this. Perhaps it was helpful that the Spanish were some of the main movers when all these things were taking place.

But to get back to the Bill, I think... I do not have a problem supporting it, but I just think we need to be very careful about not advising Tynwald of certain changes that are coming along, and as a new country comes in I think that should be dealt with by an order. But you go through some of these instruments and some of the new legislation that is coming out: we really need to be aware of it.

Finally, what annoys me more than anything else, when the EU rule does not apply to the Isle of Man, we apply it automatically, (**Mr Turner:** When it suits.) when it suits. As Mr Turner said about the roaming charges, that could have been a good thing for business in the Isle of Man, it could have helped us, and here we are disadvantaged right away.

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** Thank you, Madam President.

This should not really be a debate about the European Union... but this Bill is a pragmatic, sensible piece of legislation to make things work more smoothly with our legislation. I think it is a sensible step forward.

On the issue of the European Union, I will support the European Union a little bit. Mr Turner says it irritates some people: I think it irritates Mr Turner, I think that is the point I am making. (*Laughter*)

**Mr Turner:** It does indeed!

**Mr Butt:** I have just had the privilege of spending three days in an enlightened European country which has not had a carve-out, and I do sometimes think having been to places like – Holland it is – if we were to embrace that sort of culture and those ethics, and their ethos, we would be a happier nation.

Thank you, Madam President.

**Mr Turner:** You do not have to be in it to do that.

**The President:** The Hon. Member, Mr Braidwood.

**Mr Braidwood:** Thank you, Madam President.

Madam President, following on from what my hon. colleague, Mr Butt, said, it is a pragmatic Bill; however, I do take on board the comments made by Mr Turner and Mr Downie. The Protocol 3 Act of Accession 1973 has suited us quite well in the past: it is slightly different now, to what we actually get out of it. As Mr Downie said, if you go to the Canary Isles and see the wonderful roads funded by the EU, and they seem to be separatists in that they still have the duty free, they still have special concessions on VAT.

Yes, we have a special concession with the UK through our Customs and Excise agreement with the 5%, but we have had to pay for that some way. I do feel that other countries play the game, the UK do not –

**Mr Turner:** Britain is weak!

**Mr Braidwood:** – therefore the Isle of Man does not. But we have to be pragmatic and go along with the Bill: the other little bits, unfortunately, do not seem to come our way.

**The President:** The Hon. Member, Mr Crowe.

**Mr Crowe:** I think I am happy to support the Bill, but on the wider issue of the European Union I think the Island's prosperity depends to a large extent on access to Europe. I mean, if you think of the manufacturing sector which provides hundreds of jobs – thousands of jobs, in fact... open access to Europe through the common VAT areas as well. We create hundreds of thousands of jobs which depend on our access to Europe, and no customs barriers into Europe.

So I think, whilst there are disadvantages – and I can understand Mr Turner's point of view and Mr Downie's point of view, there are bad things about this – but I think the open access is to our benefit at the minute. I would not like to see any change and unsettle the business community into thinking we might even think of some changes to this. We cannot tinker at the edges, so we have to go along with the directives that we have to adopt.

So we are where we are, shall we say.

Thank you, Madam President.

**The President:** The learned Acting Attorney General to reply.

**The Acting Attorney General:** Yes, thank you, Madam President.

If I could, firstly, thank Mr Braidwood very much for kindly seconding the First Reading of the Bill and for his comments and support.

If I could collectively, again, refer to Hon. Members' very kind contributions, whether by way of support or comment.

If I could just deal with the comments, really, of the Hon. Mr Turner and Mr Downie: I fully appreciate them voicing the comments which they have expressed today, which perhaps voices

no doubt the frustration of many people, many of the public, with reference to European Union legislation and the view that it is simply imposed upon us.

That is not the case: we do have the opportunity which this legislation is endeavouring to tidy up and help us with, where we can quickly bring matters towards you and more cost effectively bring orders before the legislation team in Tynwald and in this Hon. Chamber for review.

What would happen, and therefore by it for approval, and to go to Mr Downie's point there is no question of any other country being added to the list of members of the states of the European Union without it coming before Tynwald. All that this is effectively doing is saying that will not need primary legislation, it can simply come before Tynwald by way of order, so Tynwald will have the opportunity of considering that then.

Dealing with Mr Turner's query as to what would happen if the United Kingdom sought to leave the EU: if I could just remind Hon. Members that our relationship is based on the European Communities (Isle of Man) Act 1973, which Act made provision for:

'... the inclusion of the Isle of Man for certain purposes in the European Communities, consequent upon the enlargement thereof to include United Kingdom.'

Out of that came Protocol 3, of which we were all aware.

We have our own legislative relationship with the EU: if the United Kingdom were to come out, then of course it would be a matter for Tynwald to decide what it ought then to do, based upon the legislation that is currently in place and our own Protocol 3. I cannot therefore give you an answer as to what *would* happen, but I can tell you that it is a matter for Tynwald to determine.

If I could therefore, having made those comments then, move the First Reading of the European Union (Amendment) Bill 2014.

**The President:** The motion is that the European Union (Amendment) Bill 2014, be read a first time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That concludes consideration of our Order Paper, Hon. Members.

I have been pondering to what extent the proposal to move this morning will hold up the Bill and whether or not there would have been any virtue in us seeing if that Report was available today to reconvene. However, looking at the timetable I think it would make not a lot of difference, given that if Members do receive the Bill then they have time to consider it and possibly take two readings at the next sitting, in which case it will hold it up for one week effectively, between the Council and the other place.

**The Lord Bishop:** Madam President, if we have copies of that, what position does that leave the other place? Do they get copies or do they not? Would they have to go through the same process?

**Mr Downie:** Not got there yet.

**The Lord Bishop:** No, if it did.

**The President:** That may well lie with the Attorney General's Chambers or the Council of Ministers in whatever they decide to do.

That concludes our business, Hon. Members.