

4. BILLS FOR SECOND READING

4.1 Terrorism and Crime (Miscellaneous Amendments) Bill 2015 – Second Reading approved

The Speaker: Item 4: Bills for Second Reading.

The first of those is the Terrorism and Crime (Miscellaneous Amendments) Bill and I call on the mover, the Hon. Member for Rushen, Mr Watterson.

Mr Watterson: Mr Speaker, this Bill makes a small number of amendments to existing legislation dealing with crime, the proceeds of crime and with terrorism.

I will provide a brief outline of the Bill, but before I do so I would like to explain why this Bill, parts of which deal with quite technical issues, is important. An international evaluation of the Island's ability to combat money laundering and financing of terrorism is now beginning. It is being undertaken by Moneyval, which will be coming in to the Isle of Man at the end of April next year. Preparations for this evaluation have been underway for some time, during which it was identified that a small number of changes were required to strengthen the legislative framework ahead of our evaluation. Of course, in the current climate, measures aimed at preventing or disrupting the financing of terrorism have taken on a very particular importance. As the Island is a well-respected international finance centre, it is important to ensure that the Island's legislation in these matters satisfies current international standards.

The Bill also addresses the speed with which the Island can move domestically to implement legislative changes concerning terrorist financing and money laundering when this is considered to be absolutely necessary to do so. The speed at which the Island implements certain UN sanctions relating to terrorism is also addressed. This is to prevent the assets of harmful organisations and individuals being moved and hidden.

The Bill consists of 20 clauses and it amends five Acts of Tynwald: the Criminal Justice Act 1963, the Criminal Justice Act 2001, the Anti-Terrorism and Crime Act 2003, the Proceeds of Crime Act 2008 and the Terrorism and Other Crime (Financial Restrictions) Act 2014.

The first three clauses are introductory.

Clauses 4 and 5 make amendment to the provisions of the Criminal Justice Acts of 1963 and 2001, which respectively deal with how the fact that there have been previous convictions committed outside of the Island is to be proved and when the courts may take such previous convictions into account, if it is relevant and appropriate to do so. At present those provisions only relate to previous convictions in the British Isles, but these clauses expand them to cover the British Islands, the EU Member States, British overseas territories and the countries and territories to which the Warsaw Convention has been extended.

Clause 6 provides for a more comprehensive definition of 'property' in the Anti-Terrorism and Crime Act 2003, to explicitly include legal documents or instruments evidencing title to or an interest in such assets.

Clauses 9, 10, 12, 13 and 14 also deal with the same matter, making this amendment in a number of places in the Proceeds of Crime Act 2008.

Clause 7 amends the Anti-Terrorism and Crime Act 2003, providing for the Council of Ministers to make amendments to legislation by order, where it is necessary to ensure compliance in respect of international obligations and standards on anti-money laundering and countering the financing of terrorism and proliferation. This authority is limited in scope to obligations and standards set by the following bodies: the Financial Action Task Force, the International Monetary Fund and Moneyval. Any such order must first be consulted upon with relevant bodies. It will then be subject to a two-stage approval process, being first laid in draft at one sitting of Tynwald, before it can be moved for approval at a subsequent sitting. I should stress that this is intended to be a contingency power that will not be used unless there is a very good reason to do so.

Clauses 15 and 19 introduce the same amendment to the Proceeds of Crime Act 2008 and the Terrorism and Other Crimes (Financial Restrictions) Act 2014.

Clauses 8 and 16 are consequential amendments to the 2003 and 2008 Acts respectively, to ensure that there is no conflict between the special Tynwald procedure for the Orders I have just mentioned and the general Tynwald procedure for subordinate legislation, which is set out in those Acts.

Clause 11 deals with the maximum penalty of custody that is available on conviction for a money laundering offence, substituting 12 months in the Proceeds of Crime Act 2008 for the six months that it is at present. This is to address an anomaly between the Act and the Anti-Money Laundering and Countering of Financing of Terrorism Code 2015.

Clause 17 amends the Terrorism and Other Crime (Financial Restrictions) Act 2014 to make direct reference to persons or entities included in the various anti-terrorism lists prepared by sanctions committees set up by the UN Security Council. This will eliminate existing delays between UN listing and implementation in the law of the Island, as currently the Island only implements those measures once they have been adopted by the EU.

Finally, clause 20 deals with the expiry of the Bill once all the provisions are in operation.

The Bill was consulted upon over a six-week period in August and September this year. A small number of substantive responses were received, to which careful consideration was given. Some amendments were then made to the Bill as a consequence of the feedback received. In particular, the requirement for the Council of Ministers to consult relevant persons before it can make an Order of the type covered by clauses 7, 15 and 19 was included at the request of industry.

Mr Speaker, I beg to move that the Terrorism and Crime (Miscellaneous Amendments) Bill 2015 be read a second time.

The Speaker: Hon. Member, Mr Thomas.

Mr Thomas: Thank you, Mr Speaker.
I beg to second and reserve my speech.

The Speaker: Hon. Member, Mr Houghton.

Mr Houghton: Thank you, Mr Speaker.

I will obviously be supporting this Bill. It is just a point of clarification, if I will, from the Minister, Mr Speaker, in relation to ... it appears that this Bill does consolidate a number of previous Acts and repeals those that are no longer. If he can clarify that point, because if it does not, can he tell me how many terrorism Acts there are now on the statute book?

The Speaker: Hon. Member, Mr Karran.

Mr Karran: Vainstyr Loayreyder, what I would like to have an assurance ... because obviously we will be supporting this Bill too, but the issue is that we are not going to end up in a situation where we are being proactive, where other jurisdictions will be reactive, as far as bringing this legislation in, as far as this issue is concerned. Could the Shirveishagh, either at this sitting or at the next sitting, when we do the clauses, just tell us how many other jurisdictions have got this into primary law, as far as this legislation is concerned?

The other thing I would like to ask him about ... He mentioned the issue about other jurisdictions and crimes in other jurisdictions. Allowing for the fact that it seems to be a major problem when the Police are trying to do police checks from lots of jurisdictions to actually find out the situation of what crimes they have done in the past, what assurances does he feel we will actually get further here, as far as that issue is concerned?

Can I also say that I am glad to see that we have a situation where Orders have to come for the approval of Tynwald, and I really do appreciate that by the Council of Ministers, because that is the sort of thing that we do need, so that we do have that flexibility. Because there is a danger, like we were talking about the item over the Seeds Act, where we just bring in UK legislation and we virtually delegate our legislative power to the adjacent isle, which weakens our fiscal and political ship when we allow other jurisdictions to be able to legislate for us.

The final thing is I think anything that will actually cut the financing of terrorism, we should all be in the vanguard, allowing for the facts that have happened in France and the problems they are having in Belgium as far as that is concerned.

I do hope that there will be a message sent back to the UK, as far as the issue of financing terrorism, that they do need to make sure that they do not end up with a situation where we bring all this legislation in and then we look at other places, like Saudi Arabia and other countries, that are allowed to finance terrorism without any recourse as far as holding them to account.

I believe, Vainstyr Loayreyder ... No problem with this piece of legislation. The problem is making sure that we are playing Queensberry Rules and others are playing the same Queensberry Rules when we are dealing with our finance sector. I would be interested in the Shirveishagh Cooishyn Sthie's response as far as that issue is concerned.

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

Mr Watterson: Thank you, Mr Speaker.

I cannot honestly answer the question of the Member for Douglas North today about how many terrorism Acts are on the book.

Mr Houghton: There are a lot of them.

Mr Watterson: There are a lot. This legislation amends five of them, and I am not sure if that is all of them, or not. I suspect that there may be more, but I could not say on the back of that. Of course, there are other Acts that you might consider are relevant to this, such as the Financial Services Act, which also provides the *vires* for money laundering codes and things such as that. I know that there are at least a couple that are not in this list – the 1991 and so on. But we are not adding any – we are not adding any whole new Bills, because this will just add to existing provisions – and we are not repealing any either. So, if that gives that sort of assurance ...

In terms of Mr Karran's comments, yes, this is Moneyval driven. Most of the provisions are based on equivalent provisions in the UK. I do not also know how many countries around the world have these exact same provisions. I think we would all accept that we are on a rising tide with regard to standards, in terms of the countering of financial crime and terrorism, and it is also perhaps a sad fact that we are held to a higher standard than some of our bigger neighbours through inspections that we go through that not all large jurisdictions do go through. However, that is part of our requirements, and certainly our domestic policy, to make sure that we are seen to be the reputable international finance centre that we are.

In terms of further assurances about being able to actually action points when they come into the Isle of Man from other jurisdictions, the expanded definition of 'property' is a good example of that, so there will be an opportunity there for more effective routes in, but I would also concur that it is important that the secondary legislation we are talking about here will be coming through Tynwald for approval. Certainly that is as important for me as much as it is for him.

With that, Mr Speaker, I beg to move.

The Speaker: Hon. Members, the motion is set out at Item 4.1. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.