

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

Mr Coleman to move:

That the Terrorism and Crime (Miscellaneous Amendments) Bill 2015 be read a second time.

The President: We turn now to Item 2, the Second Reading and clauses stage of the Terrorism and Crime (Miscellaneous Amendments) Bill 2015.

I call on the Hon. Member, Mr Coleman.

Mr Coleman: Thank you, Madam President.

Continually reviewing our anti-money-laundering and combating the financing of terrorism legislation is in the best interests of the Isle of Man – and of the international community as a whole. It is only by ensuring that the regulatory framework of the Island implements international standards, that attempts at money laundering and terrorist financing can be effectively frustrated.

As an international finance centre it is up to us to ensure that the Island's legislation in these matters not only satisfies current international standards, but also protects our reputation and our economy.

This Bill corrects a number of legislative anomalies and enhances the probity of others in the fight against terrorism and the funding of terrorism. An evaluation of the Isle of Man's anti-money laundering and combating the financing of terrorism regime is already underway. An on-site visit from a Moneyval assessment team is due at the end of April this year. The importance, therefore, is being able to evidence that the Island's legislation in this area meets international standards, and this is brought sharply into focus.

That assessment will ultimately be published and open to scrutiny on a worldwide basis. For these reasons making changes that we know will be of benefit to help tackle money laundering and the financing of terrorism must be a priority. This Bill deals with such changes.

Madam President, I beg to move that the Terrorism and other Crime (Miscellaneous Amendments) Bill 2015 be read for a second time.

The President: Well, I do not have an 'other' in my title but I think we all know what you mean. The Hon. Member, Mr Crookall.

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

The President: The motion is, Hon. Members, that the Bill be read a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Terrorism and Crime (Miscellaneous Amendments) Bill 2015 – Clauses considered

Mr Coleman to move.

The President: We turn to clauses.

I understand you wish to move clauses 1 to 3 together.

Mr Coleman: Yes, thank you, Madam President.

Clause 1 provides the short title of the Bill.

Clause 2 deals with the commencement of the Bill. The Act will come into operation on such day or days that the Department of Home Affairs may appoint by order.

Clause 3 deals with the interpretation of certain terms within the Bill.

I beg to move that clauses 1, 2 and 3 do stand part of the Bill.

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

The President: The motion is that clauses 1, 2 and 3 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

Mr Coleman: Madam President, clause 4 amends section 24 of the Criminal Justice Act 1963 which deals with previous convictions committed *outside* of the Island.

At present the provisions only relate to previous convictions in the British Islands, but this clause expands the reference to include courts in the British Islands, the EU, the British Overseas Territories, and the countries and territories to which the Warsaw Convention has been extended. Other territories may be added by order, subject to Tynwald approval.

Together with clause 5, this clause amends the currently anomalous situation that a relevant previous conviction in England could be taken into account in a case before the Island's courts, but a similar conviction in, for example, the Republic of Ireland or Sweden, could not.

I beg to move that clause 4 do stand part of the Bill.

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

The President: The motion is that clause 4 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

Mr Coleman: Clause 5 amends the Criminal Justice Act 2001 to apply the extension in clause 4.

It allows for evidence in criminal proceedings from courts in the British Islands, the EU, the British Overseas Territories, and countries and territories to which the Warsaw Convention has been extended to be taken into account by the Island's court where it is relevant and appropriate to do so. Other countries and territories may be added by order, subject to Tynwald approval.

Madam President, I beg to move that clause 5 do stand part of the Bill

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

The President: The motion is that clause 5 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

Mr Coleman: Madam President, clause 6 amends section 5 of the Anti-Terrorism and Crime Act 2003 by substituting the existing definition of 'property' with a more comprehensive definition, explicitly including legal instruments or instruments evidencing title or an interest in such property.

Madam President, I beg to move that clause 6 do stand part of the Bill.

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

The President: The motion is that clause 6 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 7.

Mr Coleman: Madam President, clause 7 amends the Anti-Terrorism and Crime Act 2003, inserting a new section 76B so as to enable the Council of Ministers to amend the Act to implement international obligations and the recommendations of certain international bodies by order.

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 – the Council of Europe’s Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism.

Before making such an order, the Council of Ministers must consult with such persons and bodies as it considers appropriate. The order must be laid before Tynwald before it can be approved at a subsequent sitting. This is intended to be a contingency power that will not be used unless there is good reason to do so.

Madam President, I beg to move that clause 7 do stand part of the Bill.

Mr Crookall: I beg to second, Madam President.

The President: The motion is that clause 7 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

Mr Coleman: Madam President, clause 8 is a consequential amendment to the 2003 Act 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 the Act.

Madam President, I beg to move that clause 8 do stand part of the Bill.

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

The President: The motion is that clause 8 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 9.

Mr Coleman: Clause 9 introduces the same change as clause 6, amending the Proceeds of Crime Act 2008 by substituting the existing definition of ‘property’ for a more comprehensive definition. In fact, this also applies to clause 10, as well, Madam President.

I beg to move that clauses 9 and 10 do stand part of the Bill.

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

The President: The motion is that clauses 9 and 10 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 11.

Mr Coleman: Madam President, clause 11 amends section 150 of the Proceeds of Crime Act 2008 by substituting references to ‘six months’ in subsections (1)(a) and (2)(a) for ‘12 months’. This is to address an anomaly between the Act and the Anti-Money Laundering and Countering the Financing of Terrorism Code 2015 where the maximum summary penalty available for custody for money laundering offences in the Code is greater than that available in the Act.

Madam President, I beg to move that clause 11 do stand part of the Bill.

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

The President: The motion is that clause 11 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 12.

Mr Coleman: Madam President, may I take 12, 13 and 14 together, please?

The President: Yes.

Mr Coleman: Clauses 12, 13 and 14 introduce the same change as clause 6, amending the Proceeds of Crime Act 2008, substituting the existing definition of 'property' for a more comprehensive definition.

Madam President, I beg to move that clauses 12, 13 and 14 do stand part of the Bill.

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

The President: The motion is that clauses 12, 13 and 14 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 15.

Mr Coleman: Madam President, clause 15 introduces into the Proceeds of Crime Act 2008 the same amendment as clause 7, inserting a new section 222A enabling the Council of Ministers to amend the Act to implement international obligations and recommendations of certain international bodies by order. The order must be consulted upon and must be laid before Tynwald, and approved at a subsequent sitting of Tynwald.

I beg to move that clause 15 do stand part of the Bill.

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

The President: The motion is that clause 15 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 16.

Mr Coleman: Madam President, clause 16 is a consequential amendment to the 2008 Act, 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 that Act.

Madam President, I beg to move that clause 16 do stand part of the Bill.

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

The President: The motion is that clause 16 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 17.

Mr Coleman: Madam President, clause 17 amends section 3 of the Terrorism and Other Crime (Financial Restrictions) Act 2014. It amends the definition of 'designated person' and inserts a new paragraph (c) in which reference is made to natural or legal persons, groups or entities mentioned in lists maintained by committees of the United Nations Security Council.

Directly linking the 2014 Act with the UN listings will help eliminate delays between UN listing and implementation in the law of the Island. Currently the Island only implements these measures once they have been adopted by the EU, leading to an increased risk of asset flight.

New subsections are also inserted to enable the Council of Ministers to amend by order the definition of 'designated person' to reflect changes to EU or UN instruments. Such an order will be subject to Tynwald approval.

I beg to move that clause 17 do stand part of the Bill.

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

The President: The motion is that clause 17 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 18.

Mr Coleman: Madam President, clause 18 amends the Terrorism and Other Crime (Financial Restrictions) Act 2014 by inserting a new section 5A so as to give the words 'owned', 'held' and 'controlled' the same meaning as they have in the European Council Regulation of December 2001. The amendment expressly extends the definition of funds subject to freezing orders so that it covers assets jointly or indirectly owned, held or controlled by relevant persons.

Madam President, I beg to move that clause 18 do stand part of the Bill.

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

The President: The motion is that clause 18 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 19.

Mr Coleman: Madam President, clause 19 introduces the same change as clause 7, amending the Terrorism and Other Crimes (Financial Restrictions) Act 2014 by inserting a new section 69 enabling the Council of Ministers to amend the Act to implement international obligations and the recommendations of certain international bodies, by order. The order must be consulted upon and must be laid before Tynwald and approved at a subsequent sitting of Tynwald.

I beg to move that clause 19 do stand part of the Bill.

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

The President: The motion is that clause 19 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 20.

Mr Coleman: Madam President, clause 20 deals with the expiry of the Bill which will be on the day after its promulgation or, if all its provisions are not in operation by then, on the day after the last provision is brought into operation.

Madam President, I beg to move that clause 20 do stand part of the Bill.

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

The President: The motion is that clause 20 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That concludes consideration of the Second Reading and the clauses, Hon. Members.