



Isle of Man
Government

Reiltys Ellan Vannin



Council of Ministers

Consultation on the European Union (Amendment) Bill 2013

Chief Secretary's Office
Oik yn Ard-scrudeyr

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European Union (Amendment) Bill 2013

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European Union (Amendment) Bill 2013

1. Purpose of the Bill

- 1.1 The purpose of the European Union (Amendment) Bill is to amend the European Communities (Isle of Man) Act 1973 ("the 1973 Act") consequential on the treaty concerning the accession of the Republic of Croatia to the European Union and the Protocol on the concerns of the Irish people on the Treaty of Lisbon; and to enable the Council of Ministers to amend by order the list of treaties specified in the definition of "the Treaties" or "the EU Treaties" set out in section 1(1) of the Act.

2. Background

- 2.1 The Isle of Man has had a limited formal relationship with the European Union and its predecessors (the European Economic Community and then the European Community) since 1 January 1973 when the Treaty concerning the Accession of Denmark, Ireland and the United Kingdom came into force. That relationship is set out in *Protocol No.3 on the Channel Islands and the Isle of Man to the Act concerning the conditions of the Accession and the adjustments to the Treaties* that was annexed to the Accession Treaty, which is commonly known as "Protocol 3"¹.
- 2.2 Since 1973 there have been a number of treaties which have either amended how the European institutions work or have provided for the accession of new Member States. In each case Protocol 3 has remained entirely unchanged and, indeed, to amend the Protocol would require the agreement of all the (currently 28) Member States. Therefore, for all the changes over the years to the body that is now known as the European Union, no greater range of EU law has become applicable to the Island than originally set out in Protocol 3².
- 2.3 The Isle of Man's Protocol 3 relationship has been implemented in Manx law since 1 September 1973 when the 1973 Act came into operation. For each of the various amending and accession treaties it has been necessary to amend the 1973 Act to ensure that it continues to accurately implement the Protocol 3 relationship and the Island's obligations under that relationship.
- 2.4 In the case of the accession treaties, such as that for Croatia, this has meant that the Protocol 3 relationship has applied between the Island and a greater number of countries than previously. Croatia became a Member State of the EU on 1 July 2013 and that fact should now be reflected in the law of the Island. This can be achieved by simply adding the Croatia Accession Treaty³ to the list of the main EU treaties set out in the 1973 Act.

¹ A copy of Protocol 3 can be found at:

<http://www.gov.im/lib/docs/cso/protocol3relationshipwiththeeu.pdf>

² In addition to the direct effects of the EU on the Island through the Protocol 3 relationship, the EU also of course has indirect effects on the Isle of Man either through the Island's constitutional relationship with the UK or merely because the EU is a powerful and influential body on the global stage. Effects through the UK are unavoidable with the Island being a Crown Dependency. Even if the Island became independent, which would sever the Protocol 3 relationship, the EU would inevitably have an effect on the Island as a powerful neighbour and main trading partner.

³ A copy of Croatia Accession Treaty can be found at:

<http://eur-lex.europa.eu/JOHtml.do?uri=OJ:L:2012:112:SOM:EN:HTML>

- 2.5 Whilst the Protocol on the concerns of the Irish people on the Treaty of Lisbon (“the Irish Protocol”)⁴ was primarily developed as a result of the initial rejection of the Treaty of Lisbon by the people of Ireland in a referendum so as to enable it to be approved in a second referendum, it does also contain some provisions of general effect. An example of this is the explicit statement that nothing in the Treaty of Lisbon makes any change of any kind, for any Member State, to the extent or operation of the competence of the European Union in relation to taxation. All EU treaties only apply to the Isle of Man to the extent necessary to implement the requirements of Protocol 3 and, although it might possibly not be absolutely essential, given the nature of the document it is considered that it is appropriate to add the Irish Protocol to the list of the main EU treaties set out in the 1973 Act.
- 2.6 In addition, the Council of Ministers has proposed that in future it should be possible to make this type of amendment to the 1973 Act by an Order rather than requiring an Act of Tynwald. This would allow any future accession or amending treaties to be implemented in a more timely manner and would also save both parliamentary and Government time⁵. It is proposed that this would be strictly limited to changing the list set out in paragraph (a) onwards in the definition “the Treaties” or “the EU Treaties” in section 1(1) of the 1973 Act. Such an Order could not have effect unless it had been first approved by Tynwald.
- 2.7 For the avoidance of doubt it can be confirmed that this power would not allow for the amendment of the 1973 Act as a result of any possible future substantive change to the Island’s Protocol 3 relationship with the EU⁶. Any such change would still require an Act of Tynwald for it to be implemented in the law of the Island.

3. Consultation Process

- 3.1 The Council of Ministers would be grateful to receive comments on the draft European Union (Amendment) Bill which can be found at Appendix 1. A copy of the 1973 Act is attached at Appendix 2.

⁴ A copy of the Irish Protocol can be found at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:060:0131:0139:EN:PDF>

⁵ The situation in the Isle of Man is very different to that in the United Kingdom, where all new EU treaties require an Act of Parliament to have effect in the law of the UK, and on which the Island’s current procedures were based.

As an EU Member State the UK has to ratify each new EU treaty for it to come into force, and each such treaty has full (and, potentially, far-reaching) effect in the UK. Parliamentary approval to primary legislation as part of the ratification process is therefore appropriate.

Although the Isle of Man is advised and consulted by the UK Government when any new EU treaty is proposed the Isle of Man is not a member of the EU and so it does not have to ratify these treaties. If a new EU treaty is ratified by all the Member States and it comes into force, by virtue of Protocol 3 (to the extent that it falls within Protocol 3) it automatically creates international obligations for the Island. If the Isle of Man fails to implement these obligations this could lead to difficulties with the UK and the EU. However, although the Protocol 3 relationship may be expanded to encompass the new country(ies) when there is an accession treaty other than that new EU treaties have little direct effect on the Island (although there can potentially be indirect effects through changes to voting rights/procedures, etc). The Council of Ministers therefore considers that secondary legislation that is subject to the Tynwald approval is an appropriate legislative procedure for the Isle of Man.

⁶ As have been mentioned, any such change would require the approval of all (currently 28) Member States of the EU. However, if the United Kingdom was to leave the EU (for example, following the referendum proposed by the Conservative Party by the end of 2017 if that party forms the next UK Government after the 2015 General Election) then Protocol 3 would cease to have effect.

3.2 Any comments should be submitted in writing to:

Ms Anne Shimmin
Chief Secretary's Office
Government Office
Bucks Road
Douglas
Isle of Man
IM1 3PN

or by email to anne.shimmin@csso.gov.im

3.3 The closing date for the receipt of comments is **Friday 4 October 2013**.

3.4 Unless specifically requested otherwise, any responses received may be published either in part or in their entirety. Please mark your response clearly if you wish your response and name to be kept confidential. Confidential responses will be included in any statistical summary and numbers of comments received.

3.5 When submitting your views please indicate if you are responding on behalf of an organisation.

3.6 To ensure that the process is transparent in line with the Government's Code of Conduct on Consultation responses can only be accepted if you provide your name with your response.

3.7 The purpose of consultation is not to be a referendum but an information, views and evidence gathering exercise from which to take an informed decision. In any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.

IN THE KEYS

EUROPEAN UNION (AMENDMENT) BILL 2013

Explanatory Memorandum

1. This Bill is promoted by the Council of Ministers.
2. If enacted, the Bill will amend the European Communities (Isle of Man) Act 1973 (“the 1973 Act”) to —
 - (a) take account of the accession of the Republic of Croatia to the European Union;
 - (b) reflect the concerns of the Irish people on the Treaty of Lisbon; and
 - (c) enable the Council of Ministers, with Tynwald approval, to amend the 1973 Act by order so as to keep up to date the list of treaties and other measures which comprise the EU Treaties.
3. Clause 1 states the short title of the Act resulting from the Bill.
4. Clause 2 amends section 1 of the 1973 Act to give effect to the amendments referred to above.
5. Clause 3 provides for the automatic repeal of the Act resulting from the Bill (but not the amendments made to the 1973 Act) upon its promulgation.
6. It is considered that the Bill has no financial or human resource implications.
7. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



EUROPEAN UNION (AMENDMENT) BILL 2013

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EUROPEAN UNION (AMENDMENT) BILL 2013

A **BILL** to amend the European Communities (Isle of Man) Act 1973 consequential on the treaty concerning the accession of the Republic of Croatia to the European Union and the Protocol on the concerns of the Irish people on the Treaty of Lisbon; and to enable the Council of Ministers to amend by order the list of treaties specified in the definition of “the Treaties” or “the EU Treaties” set out in section 1(1) of the Act.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

1 Short title

The short title of this Act is the European Union (Amendment) Act 2013.

2 Section 1 amended

- (1) Section 1 (interpretation) of the European Communities (Isle of Man) Act 1973 is amended as follows.
- (2) In subsection (1), in the definition of “the Treaties” or “the EU Treaties”, after paragraph (o) insert —
 - (p) the treaty concerning the accession of the Republic of Croatia to the European Union, signed at Brussels on 9 December 2011; and
 - (q) the Protocol on the concerns of the Irish people on the Treaty of Lisbon, adopted at Brussels on 16 May 2012; **22**.
- (3) After subsection (1) insert —
 - 23**(1A) The Council of Ministers may by order amend (including by way of adding to or deleting from) the list of provisions which are to be taken with the pre-accession treaties for the purposes of, and which are specified in, the definition of “the Treaties” or “the EU Treaties” in subsection (1).
 - (1B) However, an order under subsection (1A) —
 - (a) may not amend Schedule 1 (the pre-accession treaties); and
 - (b) is subject to subsection (2).

(1C) An order under subsection (1A) must not come into operation unless it is approved by Tynwald. **22**.

3 Automatic repeal

- (1) This Act is automatically repealed on the day after its promulgation.
- (2) However, the repeal does not affect the continuing operation of the amendments made by section 2.



Isle of Man
Ellan Vannin

EUROPEAN COMMUNITIES (ISLE OF MAN) ACT 1973

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**Isle of Man***Ellan Vannin*

EUROPEAN COMMUNITIES (ISLE OF MAN) ACT 1973

Received Royal Assent: 16 July 1973
Passed: 7 August 1973
Commenced: 1 September 1973

AN ACT to make provision in connection with the inclusion of the Isle of Man for certain purposes in the European Communities, consequent upon the enlargement thereof to include the United Kingdom.

General Note: The terminology in this Act has been amended in accordance with the Schedule to the *European Union (Amendment) Act 2011*.

1 Interpretation

[1972/1 P]

(1) In this Act, unless the context otherwise requires —

“**the Board**” [Repealed]¹

“**Commissioners**” [Repealed]²

“**the EU**” means the European Union, being the Union established by the Treaty on European Union signed at Maastricht on 7 February 1992 (as amended by any later Treaty);³

“**the Communities**” means the European Economic Community, the European Coal and Steel Community and the European Atomic Energy Community;

“**EU customs duty**” means, in relation to any goods, such duty of customs as may from time to time be fixed for those goods by directly applicable EU provision as the duty chargeable on importation into member States;

“**EU institution**” means any institution of the EU;

“**EU instrument**” means any instrument issued by an EU institution;

“**EU obligation**” means any obligation created or arising by or under the Treaties;

“**Economic Community**” [Repealed];⁴

“**enforceable EU right**” and similar expressions shall be construed in accordance with subsection (1) of section 2 of this Act;

“**the European Court**” means the Court of Justice of the European Union;

“**member**” in the expression “**member States**” refers to membership of the EU;

“**officer**” shall have the same meaning as “**officer**” as defined in the *Customs and Excise Management Act 1986* (an Act of Tynwald);⁵

“**the Protocol**” means Protocol No. 3 to the Act annexed to the Treaty of Accession;

“**the Treaties**” or “**the EU Treaties**” means, subject to the provisions of subsection (2) of this section, the pre-accession treaties, that is to say, those described in Schedule 1 to this Act, taken with —

- (a) the treaty relating to the accession of the United Kingdom to the European Economic Community and to the European Atomic Energy Community, signed at Brussels on the twenty-second day of January, nineteen hundred and seventy-two; and
- (b) the decision, of the same date, of the Council of the European Communities relating to the accession of the United Kingdom to the European Coal and Steel Community; and
- (c) the treaty relating to the accession of the Hellenic Republic to the European Economic Community and to the European Atomic Energy Community, signed at Athens on the 28th May 1979; and⁶
- (d) the decision, of the 24 May 1979, of the Council relating to the accession of the Hellenic Republic to the European Coal and Steel Community; and⁷
- (e) the treaty relating to the accession of the Kingdom of Spain and the Portuguese Republic to the European Economic Community and to the European Atomic Energy Community, signed at Madrid and Lisbon on 12th June 1985; and⁸
- (f) the decision, of 11th June 1985 of the Council relating to the accession of the Kingdom of Spain and the Portuguese Republic to the European Coal and Steel Community; and⁹
- (g) the following provisions of the Single European Act signed at Luxembourg and The Hague on 17th and 28th February 1986, namely Title II (amendment of the treaties establishing the Communities) and, so far as they relate to any of the Communities or any community institution, the preamble and Titles I (common provisions) and IV (general and final provisions); and¹⁰

- (h) Titles II, III and IV of the Treaty on European Union signed at Maastricht on 7 February 1992, together with the other provisions of the Treaty so far as they relate to those Titles, and the Protocols adopted at Maastricht on that date and annexed to the Treaty establishing the European Community with the exception of the Protocol on Social Policy on page 117 of Cm 1934; and¹¹
- (i) the Agreement on the European Economic Area signed at Oporto on 2 May 1992 together with the Protocol adjusting that Agreement signed at Brussels on 17 March 1993; and¹²
- (j) the treaty concerning the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union, signed at Corfu on 24th June 1994; and¹³
- (k) the following provisions of the Treaty signed at Amsterdam on 2 October 1997 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts —
 - (i) Articles 2 to 9;
 - (ii) Article 12; and
 - (iii) the other provisions of the Treaty so far as they relate to those Articles,and the Protocols adopted on that occasion other than the Protocol on Article J.7 of the Treaty on European Union; and¹⁴
- (l) the following provisions of the Treaty signed at Nice on 26th February 2001 amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts —
 - (i) Articles 2 to 10, and
 - (ii) the other provisions of the Treaty so far as they relate to those Articles,and the Protocols adopted on that occasion; and¹⁵
- (m) the treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, signed at Athens on 16th April 2003; and¹⁶
- (n) the treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union, signed at Luxembourg on 25th April 2005;¹⁷ and
- (o) the Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community signed at

Lisbon on 13 December 2007 (together with its Annex and protocols), excluding any provision that relates to, or in so far as it relates to or could be applied in relation to, the Common Foreign and Security Policy;¹⁸

and any other treaty entered into by the EU (except in so far as it relates to , or could be applied in relation to, the Common Foreign and Security Policy), with or without any of the member States, or entered into, as a treaty ancillary to any of the Treaties, by the United Kingdom;

“the Treaty of Accession” means the treaty referred to in paragraph (a) of the foregoing definition of the expression “the Treaties”.

- (2) If Her Majesty by Order in Council made in accordance with the provisions of subsection (3) of section 1 of the European Communities Act 1972 (an Act of Parliament) declares that a treaty specified in the Order is to be regarded as one of the EU Treaties as defined in that Act, the Order shall be conclusive that it is to be regarded as one of the EU Treaties as herein defined; but a treaty entered into by the United Kingdom after the 22nd January 1972, other than a pre-accession treaty to which the United Kingdom accedes on terms settled on or before that date, shall not be regarded as one of the EU Treaties as herein defined unless it is so specified.
- (3) For the purposes of subsections (1) and (2) of this section, the expression ‘treaty’ includes any international agreement, and any protocol or annex to a treaty or international agreement.
- (4) Except in so far as the context otherwise requires, any reference in this Act and in any order made thereunder to any other enactment shall be construed as a reference to that enactment as repealed and re-enacted, amended, extended or applied by or under any other enactment including this Act.
- (5) It is hereby declared that sections 2 and 6 of this Act are enacted for the purposes mentioned in subsection (6) of section 2 of the European Communities Act 1972 (an Act of Parliament).

1A Changes in terminology

- (1) The Council of Ministers may by order amend any statutory provision to reflect a change in terminology or numbering arising as a consequence of the Treaty of Lisbon.
- (2) An order under subsection (1) may contain any consequential, incidental, supplementary and transitional provisions which the Council of Ministers considers to be necessary or expedient.
- (3) An order under subsection (1) must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the

order is laid or at the next following sitting resolves that it is to be annulled, it ceases to have effect.

- (4) A reference in a statutory provision to all or any of the Communities is to be treated as being or including (as the context requires) a reference to the EU from the date on which this section comes into operation.
- (5) A reference to the EU in a statutory provision includes, if and in so far as the context permits or requires, a reference to the European Atomic Energy Community.
- (6) In subsection (1), the "Treaty of Lisbon" means the treaty specified in paragraph (o) in the definition of "the Treaties" in section 1(1).¹⁹

2 General implementation of the Treaties

[1972/2 P]

- (1) All such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Treaties, and all such remedies and procedures from time to time provided for by or under the Treaties, as (having regard to the provisions of Articles twenty-five, twenty-six and twenty-seven of the Act annexed to the Treaty of Accession and to the provisions of the Protocol) in accordance with the Treaties are without further enactment to be given legal effect or used in the Isle of Man shall, in the Isle of Man, be recognised and available in law, and be enforced, allowed and followed accordingly; and the expression 'enforceable EU right' and similar expressions shall be read as referring to one to which this subsection applies.
- (2) Any enactment passed or to be passed in the Isle of Man shall be construed and have effect subject to the foregoing provisions of this section.
- (3) A certificate issued by or under the authority of the Secretary of State stating that any EU instrument does or does not apply to the Isle of Man shall be conclusive evidence of that fact.

2A Application to Island of EU instruments

- (1) Notwithstanding the provisions of any other statutory provision, the Council of Ministers may by order apply to the Island as part of the law of the Island, to such extent and subject to such exceptions, adaptations and modifications as may be specified in the order, any instrument to which this section applies.²⁰
- (2) This section applies to any EU instrument (but only to the extent that such instrument does not apply as part of the law of the Island under section 2(1) of this Act).²¹
- (3) An order under this section may include provisions repealing or amending any provision of any statutory provision (other than this

section) which is inconsistent with, or is unnecessary or requires modification in consequence of the order or any instrument applied to the Island by the order.

- (4) Subject to subsection (4A), no order shall be made under this section unless a draft of the proposed order has been laid before a sitting of Tynwald and that draft has been approved at a subsequent sitting of Tynwald.²²
- (4A) An order to which this subsection applies shall be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting fails to approve it, the order shall cease to have effect.²³
- (4B) Subsection (4A) applies to orders made under this section in respect of EU instruments which (either in whole or in part) —
- (a) provide for the imposition, implementation, furtherance or enforcement of any embargo, sanction or restrictive measure whatsoever against or in respect of —
 - (i) any country or territory; or
 - (ii) nationals, persons (natural or legal), businesses, property, ships, aircraft or vehicles in, of or connected with any country or territory; or
 - (b) otherwise make provision in relation to any embargo, sanction or restrictive measure.²⁴
- (4C) Subsection (4A) also applies to orders made under this section which modify like orders made before the commencement of that subsection which, if they had been made after commencement, would have been orders to which subsection (4A) applies.²⁵
- (5) An order made under this section shall have annexed to it a text of the legislation applied by the order, incorporating the exceptions, adaptations and modifications specified in the order.
- (6) The Council of Ministers shall cause a copy of the text prepared under subsection (5) to be supplied to any person requesting the same on the payment of such fee as may be prescribed under the *Fees and Duties Act 1989*.²⁶
- (7) A copy made available for purchase under subsection (6), purporting to have been made under that subsection, shall be admissible in evidence in all the courts in the Island and shall, until the contrary is proved, be evidence of the contents thereof.²⁷

2B Implementation of EU obligations

[P1972/68/2(2), (4) and Sch 2]

- (1) Subject to subsection (4), the Council of Ministers may by regulations make such provision as appears to it to be necessary –
 - (a) for the purpose of implementing any Community obligation of the Island, or enabling any such obligation to be implemented, or of enabling any rights enjoyed or to be enjoyed by the Island under or by virtue of the Treaties to be exercised; or
 - (b) for the purpose of dealing with matters arising out of or related to any such obligation or rights, or the operation from time to time of section 2(1); or
 - (c) for the purpose of implementing any instrument applied to the Island under section 2A of this Act; or²⁸
 - (d) for the purpose of dealing with matters arising out of or related to any such instrument.²⁹
- (2) In the exercise of any statutory power or duty, including the power to give directions or to legislate by means of orders, rules, regulations or other subordinate instrument, the person or body entrusted with the power or duty may have regard to the objects of the EU and to any such obligations or rights as aforesaid.
- (3) The provision that may be made under subsection (1) includes, subject to subsection (4), any such provision (of any such extent) as might be made by Act of Tynwald, and any enactment passed or to be passed, other than one contained in sections 1 to 3, shall be construed and have effect subject to the foregoing provisions of this section; but, except as may be provided by any Act passed after this section comes into operation, subsection (4) shall have effect in connection with the powers conferred by this section to make regulations.
- (4) The powers conferred by subsection (1), to make provision for the purposes in that subsection shall not include power –
 - (a) to make any provision imposing or increasing taxation otherwise than in accordance with subsection (5); or
 - (b) to make any provision taking effect from a date earlier than that of the making of the instrument containing the provision; or
 - (c) subject to subsection (6), to confer any power to legislate by means of orders, rules, regulations or other subordinate instrument, other than rules of procedure for any court or tribunal; or
 - (d) to create any new criminal offence the punishment for which exceeds –
 - (i) in the case of on conviction on information, custody for 2 years, a fine, or both;

- (ii) on summary conviction, custody for 3 months, a fine of £5,000 (if not calculated on a daily basis) or a fine of £200 a day, or both.³⁰
- (5) The provision that may be made under subsection (1) includes any provision imposing or increasing any charge if such charge corresponds to a charge which is imposed or increased in the United Kingdom under, or in pursuance or by virtue of, EU rules as they apply to the United Kingdom.
- (6) Subsection (4)(c) shall not be taken to preclude the modification of a power to legislate conferred otherwise than under subsection (1), or the extension of any such power to purposes of the like nature as those for which it was conferred; and a power to give directions as to matters of administration is not to be regarded as a power to legislate within the meaning of subsection (4)(c).
- (7) Without prejudice to the application to this section of the definition of 'EU obligation' contained in section 1(1), any EU rule which deals with or relates (directly or indirectly) to —
 - (a) customs matters;
 - (b) quantitative restrictions;
 - (c) levies and other import measures applied to third countries and laid down in EU rules in respect of agricultural products and products processed therefrom which are the subject of a special trade regime; or
 - (d) the free movement and observance of normal conditions of competition in trade in agricultural products,shall, for the purposes of this section, be deemed to create a EU obligation of the Island.
- (8) Where any regulations made under this section contain a declaration to the effect that the regulations are made in implementation of a EU obligation, such declaration shall be conclusive evidence of the existence of such an obligation.
- (9) Any regulations made under subsection (1) shall be laid before Tynwald as soon as may be after the making thereof, and if Tynwald at the sitting before which such instrument is so laid or at the next following sitting resolves that the instrument shall be annulled, the regulations shall thereupon cease to have effect.³¹

2C Ambulatory references to EU instruments

- (1) A public document referred to in subsection (2) may provide that a reference in it to an EU instrument or a provision of an EU instrument is

- to be construed as a reference to the instrument or provision as amended from time to time.
- (2) Subsection (2) applies in respect of a public document made after this section comes into operation which –
 - (a) is an order made under section 2A;
 - (b) contains regulations made under section 2B; or
 - (c) is made under an enactment or provision which is prescribed for the purposes of this section by an order made under subsection (3).
 - (3) The Council of Ministers may by order prescribe an enactment or a provision of an enactment in respect of which a public document which is made under the prescribed enactment or provision is a public document to which subsection (2) applies.
 - (4) An order under subsection (3) may contain any consequential, incidental, supplementary and transitional provisions which the Council of Ministers considers to be necessary or expedient.
 - (5) An order under subsection (3) must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting resolves that it is to be annulled, it ceases to have effect.
 - (6) A provision in an order under section 2A or regulations under section 2B made (in either case) before this section comes into operation which contains a reference to an EU instrument or a provision of an EU instrument as amended from time to time (however expressed) is to be construed as if subsections (1) and (2) were in operation when the order or regulations were made.
 - (7) However, the operation of subsection (6) does not render a person liable to civil or criminal proceedings to which the person would not be liable but for its operation.³²

3 Decisions on, and proof of, Treaties and EU instruments etc

[1972/3 P]

- (1) For the purposes of all legal proceedings any question as to the meaning or effect of any of the provisions of the Treaties having effect in the Isle of Man, or as to the validity, meaning or effect of any EU instrument having effect in the Isle of Man, shall be treated as a question of law (and if not referred to the European Court, be for determination as such in accordance with the principles laid down by and any relevant decisions of the European Court or any court attached thereto).³³
- (2) Judicial notice shall be taken of the Treaties, of the Official Journal of the European Union and of any decision of, or expression of opinion by, the European Court or any court attached thereto on any such question as

aforesaid; and the Official Journal shall be admissible as evidence of any instrument or other act thereby communicated of the EU or any EU institution.³⁴

- (3) Evidence of any instrument issued by a EU institution, including any judgment or order of the European Court or any court attached thereto, or of any document in the custody of a EU institution, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of that institution; and any document purporting to be such a copy shall be received in evidence without proof of the official position or handwriting of the person signing the certificate.³⁵
- (4) Evidence of any EU instrument may also be given in any legal proceedings by production of a copy purporting to be printed by the Queen's Printer.
- (5) Subsections (2) to (4) —
 - (a) shall have effect in relation to the EFTA Court (established under Article 108 of the Agreement specified in paragraph (i) of the definition of 'the Treaties' in section 1(1)) as they have effect in relation to the European Court, and³⁶
 - (b) shall have effect in relation to the EFTA Surveillance Authority (established under that Article) as they have effect in relation to a EU institution other than the European Court.³⁷

4 **[Repealed]**³⁸

5 **The common agricultural policy**

[1972/6(4) P; 1972/6(5) P]

- (1) Agricultural levies of the EU, so far as they are charged on goods exported from the Isle of Man or shipped as stores, shall be paid to and recoverable by the Treasury or Officer; and the Treasury shall have power to make orders to make such provision supplementary to any directly applicable EU provision as the Treasury considers necessary for securing the payment of any agricultural levies so charged, including provision for the making of declarations or the giving of other information in respect of goods exported, shipped as stores, warehoused or otherwise dealt with.³⁹
- (2) Except as otherwise provided by or under any enactment, the same agricultural levies of the EU, so far as they are charged on goods imported into the Isle of Man, shall be levied, collected by and paid to the Treasury as a EU customs duty (and there shall be allowed the same reliefs from such duty) as would be charged or allowed as and in respect of agricultural levies on goods imported into the United Kingdom under subsection (5) of section 6 of the *European Communities Act 1972* (an Act of

Parliament), and in relation to those levies the provisions of the *Customs and Excise Act 1993* and of any other statutory provision for the time being in force and relating to customs or excise duties on imported goods shall apply as they would apply in relation to EU customs duties and if, in connection with any EU arrangements for or related to the regulation of the market for any agricultural produce, any payment of refunds or allowances on goods exported or to be exported from the Isle of Man is to be made, then in relation to any such refund or allowance section 140 (except subsection (3) and the reference to that subsection in subsection (2)) and section 166 of the *Customs and Excise Management Act 1986* shall apply as they apply in relation to a drawback of excise duties, and other provisions of that Act shall have effect accordingly.⁴⁰

- (3) In this section 'agricultural levy' shall include any tax not being a customs duty, but of equivalent effect, that may be chargeable in accordance with any such EU arrangements as aforesaid.
- (4) The proceeds of the agricultural levies referred to in this section shall be accounted for by the Treasury and dealt with as part of the General Revenue of the Isle of Man.⁴¹

6 EU offences

[1972/11 P]

- (1) A person who, in sworn evidence before the European Court, makes any statement which he knows to be false or does not believe to be true shall, whether he is a British subject or not, be guilty of an offence and may be proceeded against and punished in the Isle of Man as for the offence of perjury.⁴²
- (2) Where a report is made as to any such offence under the authority of the European Court, then an information for the offence may, in the Isle of Man, be preferred as in a case where a prosecution is ordered under section 8 of the *Perjury Act 1952*.⁴³

7 Furnishing of information to the EU

Returns and information that may under section 2 of the *Agricultural Returns Act 1955* be disclosed to the Department of Environment, Food and Agriculture may, in like manner, be disclosed in pursuance of an EU obligation to an EU institution.⁴⁴

8 [Repealed]⁴⁵

9 Amendments

- (1) and (2) [Repealed]⁴⁶
- (3) [Repealed].⁴⁷

(4) [Repealed]⁴⁸

10 [Repealed]⁴⁹

11 Citation and commencement

- (1) This Act may be cited as the European Communities (Isle of Man) Act 1973.
- (2) This Act shall come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys, but shall take effect as from the 1st day of September 1973.

Schedule 1

[Section 1]

THE PRE-ACCESSION TREATIES

1. The “**E.C.S.C. Treaty**”, that is to say, the Treaty establishing the European Coal and Steel Community, signed at Paris on the 18th April, 1951.
2. The “**E.E.C. Treaty**”, that is to say, the Treaty establishing the European Economic Community, signed at Rome on the 25th March, 1957.
3. The “**Euratom Treaty**”, that is to say, the Treaty establishing the European Atomic Energy Community, signed at Rome on the 25th March, 1957.
4. The Convention on certain Institutions common to the European Communities, signed at Rome on the 25th March, 1957.
5. The Treaty establishing a single Council and a single Commission of the European Communities, signed at Brussels on the 8th April, 1965.
6. The Treaty amending certain Budgetary Provisions of the Treaties establishing the European Communities and of the Treaty establishing a single Council and a single Commission of the European Communities, signed at Luxembourg on the 22nd April, 1970.
7. Any treaty entered into before the 22nd January, 1972, by any of the Communities (with or without any of the member States), or, as a treaty ancillary to any treaty included in this Schedule, by the member States (with or without any other country).

Schedule 2⁵⁰



ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Definition of ‘the Board’ repealed by Treasury Act 1985 Sch 3.

² Definition of ‘Commissioners’ repealed by GC29/80.

³ Definition of ‘the EU’ inserted by European Union (Amendment) Act 2011 s 3.

⁴ Definition of ‘Economic Community’ repealed by European Union (Amendment) Act 2011 s 6

⁵ Definition of ‘officer’ modified by Customs and Excise Management Act 1986 Sch 6.

⁶ Para (c) added by European Communities (Greek Accession) Act 1981 s 1.

⁷ Para (d) added by European Communities (Greek Accession) Act 1981 s 1.

⁸ Para (e) added by European Communities (Spanish and Portuguese Accession) Act 1985 s 1.

⁹ Para (f) added by European Communities (Spanish and Portuguese Accession) Act 1985 s 1.

¹⁰ Para (g) added by European Communities (Amendment) Act 1988 s 1.

¹¹ Para (h) added by European Communities (Amendment) Act 1994 s 1.

¹² Para (i) added by European Communities (Amendment) Act 1994 s 2.

¹³ Para (j) added by European Communities (Amendment) Act 1995 s 1.

¹⁴ Para (k) added by European Communities (Amendment) Act 1999 s 1.

¹⁵ Para (l) added by European Communities (Amendment) Act 2003 s 1.

¹⁶ Para (m) added by European Union (Accessions) Act 2004 s 1.

¹⁷ Para (n) added by European Communities (Amendment) Act 2007 s 1.

¹⁸ Para (o) added by European Union (Amendment) Act 2011 s 3.

¹⁹ S 1A inserted by European Union (Amendment) Act 2011 s 4.

- ²⁰ Subs (1) amended by European Communities (Amendment) Act 2000 s 1.
- ²¹ Subs (2) amended by European Communities (Amendment) (No.2) Act 1992 s 3.
- ²² Subs (4) substituted by European Communities (Amendment) (No.2) Act 1992 s 2 and amended by European Communities (Amendment) Act 2000 s 1.
- ²³ Subs (4A) inserted by European Communities (Amendment) Act 2000 s 1.
- ²⁴ Subs (4B) inserted by European Communities (Amendment) Act 2000 s 1.
- ²⁵ Subs (4C) inserted by European Communities (Amendment) Act 2000 s 1.
- ²⁶ Subs (6) amended by European Communities (Amendment) Act 2000 s 1.
- ²⁷ S 2A inserted by European Communities (Amendment) Act 1991 s 1.
- ²⁸ Para (c) added by European Communities (Amendment) Act 1991 s 1.
- ²⁹ Subs (1) amended by GC155/91 and by Interpretation Act 1976 s 16A. Para (d) added by European Communities (Amendment) Act 1991 s 1.
- ³⁰ Para (d) substituted by European Union (Amendment) Act 2011 s 7.
- ³¹ S 2B (previously s 2A, renumbered by European Communities (Amendment) Act 1991 s 1) inserted by European Communities (Amendment) Act 1988 s 3.
- ³² S 2C inserted European (Amendment) Act 2011 s 7.
- ³³ Subs (1) amended by European Communities (Amendment) Act 1988 s 2.
- ³⁴ Subs (2) amended by European Communities (Amendment) Act 1988 s 2.
- ³⁵ Subs (3) amended by European Communities (Amendment) Act 1988 s 2.
- ³⁶ Para (a) amended by European Communities (Amendment) Act 1995 s 1.
- ³⁷ Subs (5) added by European Communities (Amendment) Act 1994 s 5. Para (b) amended by European Communities (Amendment) Act 1995 s 1.
- ³⁸ S 4 repealed by GC38/79.
- ³⁹ Subs (1) amended by Treasury Act 1985 Sch 2.
- ⁴⁰ Subs (2) amended by GC38/79, by Treasury Act 1985 Sch 2, by Customs and Excise Management Act 1986 Sch 4 and by Customs and Excise Act 1993 Sch 1.
- ⁴¹ Subs (4) amended by GC29/80 and by Treasury Act 1985 Sch 2.
- ⁴² Subs (1) amended by European Communities (Amendment) Act 1988 s 2.
- ⁴³ Subs (2) amended by European Communities (Amendment) Act 1988 s 2.
- ⁴⁴ S 7 amended by Transfer of Governor's Functions Act 1992 Sch 1 and by SD155/10 Sch 3.
- ⁴⁵ S 8 repealed by GC1/76.
- ⁴⁶ Subs (1) and (2) repealed by Statute Law Revision Act 1983 Sch 2.
- ⁴⁷ Sub (3) repealed by European Union (Amendment) Act 2011 s 6.
- ⁴⁸ Subs (4) repealed by GC1/76.
- ⁴⁹ S 10 repealed by GC38/79.
- ⁵⁰ Sch 2 repealed by Agricultural (Miscellaneous Provisions) Act 2008 Sch.

List of direct consultees

Tynwald Members

Clerk of Tynwald

Attorney General

Local Authorities

Chief Officers of Government Departments, Boards and Offices

Chamber of Commerce

Isle of Man Trade Union Council

Isle of Man Law Society

Positive Action Group

Code of Practice Consultation Criteria

1. Consult widely throughout the process, allowing a minimum of 6 weeks for a minimum of one written consultation at least once during the development of the legislation or policy.
 2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
 3. Ensure your consultation is clear, concise and widely accessible.
 4. Give feedback regarding the responses received and how the consultation process influenced the policy.
 5. Monitor your Department's effectiveness at consultation.
 6. Ensure your consultation follows best practice, including carrying out an Impact Assessment if appropriate.
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