

# **European Union (Amendment) Bill 2013**

## **Results of public consultation exercise**

### **1. Introduction**

- 1.1 On 16 August 2013 a consultation document was published concerning the European Union (Amendment) Bill 2013 which had been drafted to make certain amendments to the European Communities (Isle of Man) Act 1973 ("the 1973 Act").
- 1.2 The version of the Bill as originally published only contained one substantive clause to amend section 1 of the 1973 Act as a consequence of the treaty concerning the accession of the Republic of Croatia to the European Union, and also the Protocol on the concerns of the Irish people on the Treaty of Lisbon, by adding these treaties to the definition of "the Treaties" or "the EU Treaties"; and also to allow the Council of Ministers to make such straightforward amendments to that definition in future by an Order, that would require Tynwald approval, so as to implement the Island's international obligations in this area more efficiently and effectively.
- 1.3 After the consultation document was published in August a further issue with the 1973 Act came to the attention of the Council of Ministers which decided that the additional issue should also be dealt with by the current Bill. The consultation exercise was extended to allow time for this additional issue to be considered.
- 1.4 The revised consultation document was circulated to the direct consultees on 11 October 2013 and it was also published on the Isle of Man Government website with the closing date for comments extended to 8 November 2013.
- 1.5 The revised consultation document augmented and replaced the original consultation document. It included the revised draft of the Bill, provided information on the original amendments, gave background on the new amendments that had been added to the Bill, and the opportunity was also been taken to address some misunderstandings that may have arisen about the effect of the amendments that were set out in the original draft version of the Bill.
- 1.6 The revised draft of the Bill only included one additional clause and this contained certain proposed amendments to section 2A of the 1973 Act. These amendments were to change the Tynwald procedure for orders to be made under that section of the Act that do not concern EU sanctions to the normal Tynwald approval procedure; to clarify the status of the applied EU legislation annexed such orders and to provide for the possibility of official updates to the annexes where an ambulatory reference<sup>1</sup> had been used.

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<sup>1</sup> An ambulatory reference is where a reference to applied EU legislation (or certain provisions of such legislation) is construed as meaning the legislation (or provisions of it) as amended from time to time. The power to use ambulatory references was inserted into the 1973 Act by the European Union (Amendment) Act 2011.

## 2. Responses

- 2.1 A total of nine direct responses were received on the original draft of the Bill and a further two responses were received after the revised version of the Bill had been published. In addition, early in the consultation exercise a letter from a member of the public about the Bill was published in the Isle of Man Examiner.
- 2.2 Of the nine responses received initially, three were from Members of Tynwald, four were from Local Authorities, one was from a Statutory Board and one was from a member of the public. The two additional responses were both from Government Departments. The letter in the newspaper was by the same member of the public who responded formally to the consultation exercise.
- 2.3 A summary of the responses is set out in the table below (none of those who responded asked for their comments to be treated as confidential).

<b>From</b> (in order of receipt)	<b>Comments</b>
Mr Alex Downie MLC	No problem with the Bill.
Financial Supervision Commission	Eminently sensible. Ability to alter definition of EU treaties by order makes better use of Government and Tynwald time.
Mr Bill Henderson MHK	Requested further information about the "Irish Protocol" (which was provided).
Mr Peter Karran MHK	Responded in capacity as Leader of the Liberal Vannin Party. Not satisfied augmentation of Protocol 3 in best interests of the Island; should have new relationship based on EEA membership. Cannot accept Treaty of Lisbon be simply included in Manx Law. Island does not adhere to any actual or meaningful model of the rule of law. Placing legislative power in the hands of Council of Ministers neither necessary nor required; leaves considerable legislative scope outside the competence of Tynwald. Cannot accept as matter of law any power of amendment or addition to the legislative framework of the Island by Order of Council – with or without Tynwald sanction. Bill and Explanatory Memorandum silent on reason for doing so.
Andreas Commissioners	No comments or views.
Ballaugh Commissioners	No comments or views.
Jurby Commissioners	No comments or views.
Patrick Commissioners	No comments.
Mr Tristram Llewellyn Jones	Concerned Bill will degrade Tynwald scrutiny of EU legislation proposed for the Island. Suggested that wider powers than those required to incorporate EU Treaties pertaining to the Island's Protocol 3 relationship were being proposed. Referred to existing powers under sections 2A and 2B of the 1973 Act. Maximum penalties under section 2B significant, could be used for Criminal Justice matters, and such matters should not be introduced by order but require public consultation and primary legislation. No democratic advantage to allowing,

<b>From</b> (in order of receipt)	<b>Comments</b>
	for example, criminal justice legislation drafted in the EU to be introduced as secondary orders. Open to Tynwald to question an 'Order' but these are usually introduced at short notice and, without requirement for debate, almost always get passed. Last Tynwald passed 4327 Orders and not aware of any rejected. If Council of Ministers gain proposed powers the Island may be subject to new EU Directives, passed without proper democratic scrutiny, which may have no relevance to Island way of life. Powers for Council to make regulations 'by order' should be dropped from the Bill.
(Publication of the revised consultation document and Bill)	
Department of Infrastructure	No comments.
Department of Economic Development	Agrees with proposals, in particular change to Tynwald procedure for orders made under section 2A of the 1973 Act. Spotted minor typographical error in the Bill.

2.4 From the number and nature of the responses to the consultation exercise it may be seen that interest in the European Union (Amendment) Bill 2013 is very low. However, a small number of people have quite strong views on legislation relating to the European Union although some of the comments from those objected to the Bill did not appear to directly relate to what was in the Bill itself.

2.5 As the two responses which had concerns about the Bill were received prior to the publication of the revised consultation document the issues, to the extent that they related to the Bill, were largely addressed in that document which is still available on the Isle of Man Government website at:  
<http://www.gov.im/ConsultationDetail.gov?id=399>

### **3. Next steps**

3.1 The Bill in its present form will be finalised and approval will be sought for it to be introduced into the House of Keys early in 2014.