

Treasury
Customs and Excise Division

Notice Powers 9 MAN

Mutual Assistance Requests By Bodies Outside the Island



January 2008
(updated to 22 September 2017)



Isle of Man
Government

Reillys Ellan Vannin

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Isle of Man
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FOREWORD

This document is intended primarily as a general guide for those seeking to make requests for assistance to the Customs and Excise Division of the Treasury. However, it also is intended to provide basic contact information etc in connection with assistance that might be provided by other agencies in the Island. The Customs and Excise Division has the discretion to assist other agencies under various legislation, including -

- Sections 3A, and 174B to 174D of, and Schedule 3A to, the Customs and Excise Management Act 1986
- EU Council Regulation 515/97/EC
- Section 77A of, and Schedule 12A to, the Value Added Tax Act 1996
- The VIES Regulation (EU Council Regulation 904/2010/EU, as applied in the Island by SD 925/10)
- The Customs and Excise (Implementation of 1979 Agreement) Order 1980 (GC 28/80)
- Orders made under the Proceeds of Crime Act 2008
- Part 5 of the Gambling Duty Act 2012
- Section 122 of the Social Security Administration (Fraud) Act 1992 (as it has effect in the Island)
- Sections 106A and 106B of the Income Tax Act 1970
- Section 34 of the Terrorism and Other Crime (Financial Restrictions) Act 2014
- Orders and Regulations applying UN and EU trade and financial sanctions in the Island
- Customs mutual assistance agreements between the EU and third countries
- EU Directive 2010/24/EU (the "MARD Directive") and other relevant EU legislation given effect in Island law which allow for mutual assistance (including mutual recovery of debts) with EU Member States where customs duties, VAT and certain excise duty (on oils, tobacco and alcohol) are involved.

Other legislation also provides scope for assistance to be provided in order to carry out enquiries in the Island, and/or obtain evidence for use overseas. In some cases formal requests would be required to be made to HM Attorney General's Chambers before assistance can be provided, but the Division welcomes informal approaches from off-Island agencies and can advise enquirers of the correct procedure to be followed.

Copies of current Isle of Man legislation may be found at <https://www.legislation.gov.im/cms/> and information on UK and EU legislation that has been applied as part of Island law for the purposes of customs and excise matters may be found at <https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/legislation-for-customs-and-vat/>

The Division deals with a wide range of matters (see Notice 1003 MAN for a list of assigned matters for which the Division is responsible) in the areas of -

- indirect taxation e.g. VAT, customs duties, excise duties, gambling duties
- law enforcement e.g. money laundering, UN financial sanctions
- the protection of society e.g. import, export and trade controls, drug trafficking

The Isle of Man and UK are linked in a customs union. The Island is also part of the customs territory and treated as part of the fiscal territory (VAT and excise) of the EU. Legislation in the Island will, in most significant areas of customs and excise law, be similar to corresponding UK legislation, and EU law will often apply as of right, or will have been given effect in the Island.

Island law meets the criteria required by UK and EU legislation on the transmission of personal data. The Data Protection Act 2002 contains exceptions that permit the sending of personal data overseas, to jurisdictions where data protection law does not meet Island, UK or EEA standards, where certain criteria are met. These criteria include -

- where the transfer is necessary for the purpose of legal proceedings
- where the transfer is necessary to protect the vital interests of the data subject
- where the information is contained on a public register or is in the public domain
- where the transfer is in the “substantial public interest”

The Customs & Excise Division is committed to ensuring that its activities, and in particular its investigatory activities, comply with the requirements of domestic human rights legislation and the European Convention of Human Rights.

Requests to board IOM-flag vessels at sea are dealt with under a Protocol: see “Protocol for Authorising the Board of Manx Ships at Sea” (under Article 17 of the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988).

1 <https://www.gov.im/media/1351807/notice-1003-man-assigned-matters-8-jul-16.pdf>

THE ISLE OF MAN

Status

The Isle of Man is a Crown Dependency situated in the Irish Sea, in the heart of the British Isles. The country is an internally self-governing dependent territory of the British Crown. It is not part of the United Kingdom but is a member of the British Commonwealth.

As a Crown Dependency, the ultimate responsibility for the government of the Island is vested in the Crown. By long standing convention, the UK Government does not legislate for the Island except with the specific consent of the Island's Government.

The Island has its own Income Tax and Customs & Excise services and is an established low tax area enjoying total independence from the UK on matters of direct taxation. There is low corporate and personal tax and no capital transfer or inheritance tax. As a consequence the Island has developed into a flourishing and internationally respected offshore business centre.

The Island's relationship with the UK

The Island is not part of the UK, and is an entirely separate legal jurisdiction.

However, it is part of the Common Travel Area with the UK, Channel Islands and Ireland. It has reciprocal arrangements with the UK in a number of areas, such as in social security and pensions, and in respect of VAT and customs and excise duties.

Under the Customs and Excise Agreement 1979 the Island's rates of VAT, customs duties and many types of excise duty are maintained in line with those of the UK, with the combined revenues being pooled and shared. The Island also maintains export controls in line with those of the UK. When combined with the fact that the Island is a part of the Common Travel Area, the Agreement means that persons and goods enjoy free movement (with only a very few exceptions) between the UK and the Island, and the two jurisdictions may be seen as a common area for VAT, customs and excise purposes.

The Island's relationship with the EU

The Island is not part of the EU. However, due to the existence of the predecessor of the Customs and Excise Agreement, and the long-standing constitutional relationship between the two jurisdictions, when the UK joined the EEC in 1972 it negotiated special arrangements for the Island under Protocol 3 of its Act of Accession.

The Island is a part of the EU customs territory, and EU customs law applies in relation to imports, exports etc. Imports into the Island are considered to be imports into the EU, and exports from the Island as exports from the EU.

Mutual assistance agreements on customs matters between Member States, and between the EU and third countries also apply to the Island.

EU VAT and excise law also recognises the special relationship that exists between the UK and the Island. As a result, EU law treats the Island as if it were part of the fiscal territory of the EU, i.e. the VAT and excise duty (on alcohol, tobacco and mineral oils) territory.

Therefore the Island functions as part of the European Single Market, with no restrictions on the movement of people or goods between the Island and Member States.

The legal system - the courts

The legal system in the Island is wholly separate from that of England and Wales. In common with other members of the Commonwealth, the highest appellate court is the Judicial Committee of the Privy Council in London.

Lawyers in the Island are known as advocates and combine the roles of solicitors and barristers in England. Organised into partnerships, Manx advocates perform a wide range of work and have an exclusive right of audience in the Island's courts (although English barristers can be licensed to appear in certain cases). Other legal work (except conveyancing) can be undertaken in the Island by registered legal practitioners qualified to practice in other jurisdictions.

Although English law does not extend to the Island, the Manx legal system (like the legal systems of most Commonwealth countries) is based on the principles of English common law. Manx criminal law was codified in the 19th century and is closely based on English law. In relation to contract, tort, family law and social security, Manx law is very similar to English law. But in other respects Manx law has been developed to meet the Island's special circumstances, particularly with regard to direct taxation, company law and financial supervision.

The principal sources of Manx law are Acts of Tynwald and Orders and Regulations made under these Acts. Tynwald has power to pass Acts on any subject, but all Acts of Tynwald require Royal Assent. The United Kingdom Parliament at Westminster still legislates for the Island in respect of some subjects which are of common concern to the Isle of Man and the United Kingdom, such as defence, nationality and immigration.

Although the Isle of Man is largely autonomous, the United Kingdom remains responsible for the Island's defence and international relations. EU law has direct application to the Isle of Man only for very limited purposes, in accordance with Protocol 3 to the 1972 Act of Accession.

The Island's High Court judges are called Deemsters (a term dating from Viking times), who have jurisdiction over all the criminal and civil matters that in England would fall under the High Court, County Court and Crown Court.

The Manx Appeal Court is called the Staff of Government Division. The final appeal, one that is rarely pursued, is to the Judicial Committee of the Privy Council in London.

The Island has its own lay magistrates (similar to their English counterparts) and also stipendiary magistrates (the High Bailiff and Deputy High Bailiff) who also act as coroners of inquests and preside over the licensing court.

The Attorney General's Chambers

HM Attorney General for the Isle of Man is the legal adviser to the Crown in the Isle of Man. He is also responsible for the prosecution of offences in the Court of General Gaol Delivery and for the drafting of Government legislation.

The Attorney General is appointed by Her Majesty the Queen and holds office during Her Majesty's pleasure. He is *ex officio* a member of the Legislative Council. His deputy is the Solicitor General.

Chambers deals with international assistance requests from law enforcement, courts and legal authorities, and it includes the International Co-operation and Asset Recovery Team (ICART).

The Police

The Isle of Man Constabulary would be primarily responsible for investigations into terrorism and terrorist funding.

Until 2015, the Financial Crime Unit (FCU), a joint Police/Customs and Excise unit received and dealt with suspicious activity reports (SAR), provided assistance to other jurisdictions in cases involving financial crime and other serious and complex fraud, and carried out its own such investigations.

In 2015, a change was made with the FCU being disbanded. The financial intelligence role, including dealing with SAR, was to instead be performed by an independent Financial Intelligence Unit (FIU), an independent organisation established in statute. Investigation into serious and complex fraud would be subsequently handled by the Police or (for "assigned matters") Customs and Excise.

The Treasury

The duties and functions of the Treasury are set out in section 3 of the Treasury Act 1985. These are:-

- to administer the General Revenue of the Island, the Isle of Man Reserve Fund and all other financial resources of the Government;
- to supervise the collection and management of the revenues of customs and excise, income tax, value added tax and other taxes, fees, charges or duties which fall to be paid into the General Revenue (see also its Customs & Excise and Income Tax Divisions below);
- to supervise and control all matters relating to the financial affairs of the Government;
- generally to perform functions relating to the financial administration of the Government;
- to receive and consider the annual estimates of all designated bodies and Departments of Government in such form as the Treasury shall direct;
- to determine priorities of expenditure, to give directions to designated bodies and Departments of Government as to accounting and economies, and to consider applications by designated bodies for supplementary expenditure; and
- to consider all matters of financial and economic policy affecting the present and future prosperity of the Island.

Most of the work of the Treasury is carried out through its various Divisions.

In the context of this Guide, the Treasury itself is responsible for investigations into insider dealing in shares (with investigation and reporting usually assigned to the FSA); and the issuing of import, export and trade licences, as well as licences required under UN sanctions (on the recommendation of Customs & Excise).

Customs & Excise

The Customs & Excise Division of the Treasury is responsible for the management of a wide variety of customs and excise duties and associated regimes, VAT, and enforcement of import and export prohibitions and restrictions. Since 2000 it has also been responsible for administering United Nations and European Union financial sanctions in the Island. It also deals with import, export and trade (trafficking & brokering) licensing matters, and proliferation and proliferation financing on behalf of the Treasury.

It has a law enforcement role, with investigation and intelligence functions, and a maritime patrol capability.

Island customs law, UN and EU sanctions legislation, and relevant EU instruments provide the Division with the ability to exchange information and co-operate with a wide variety of agencies on and off the Island.

Income Tax

The Income Tax Division is responsible for the management of direct taxation in the Island, and is now also responsible for national insurance payments.

Its main source of powers is the Income Tax Act 1970, and provisions in that Act permit the exchange of information and co-operation with various on-Island agencies, including the Customs and Excise Division.

Other powers cater for co-operation and information exchange with off-Island authorities, and it also has concluded a large number of tax information exchange agreements (TIEA) and other agreements with other jurisdictions.

Its Compliance Unit is responsible for any inter-agency co-operation.

The Financial Services Authority (FSA)

Until 2015, there were 2 separate regulatory bodies responsible for the supervision of the insurance and general financial sectors in the Island - the Insurance and Pensions Authority (IPA) and the Financial Supervision Commission (FSC).

In 2015 these two agencies merged to form the Financial Services Authority (FSA). This is an independent statutory body responsible for the licensing and supervision of banks, trust and corporate service providers (TCSP or fiduciaries), collective investment schemes, building societies, investment businesses, insurance and reinsurance companies and pensions businesses. It also supervises money service businesses (MSB), such as money transmitters, and its anti-money laundering unit has overall supervisory responsibility for other businesses subject to anti-money laundering/countering financing of terrorism (AML/CFT) control. In October 2015, AML/CFT control of designated non-financial

businesses (DNFBP) was also given to the FSA by the Designated Businesses (Registration and Oversight) Act 2015. The businesses affected included lawyers, accountants, tax advisors, estate agents, virtual currency businesses etc.

It is also responsible for oversight of the Island's beneficial ownership registration regime.

Central Registry

This is a Division of the Department of Economic Development (DED) and is responsible for the registration of limited companies and other corporate bodies, including LLC, foundations, protected cell companies (PCC) etc, as well as partnerships and limited partnerships and business names.

From 2015, it also became responsible for the register of charities in the Island.

Office of Fair Trading (OFT)

This is an independent statutory body with responsibility for consumer safety and protection and trading standards. Until 2015, it also registered moneylenders (though this role is now with the FSA), and is the lead agency in the Island on intellectual property protection.

Financial Intelligence Unit (FIU)

Established by statute in 2015, as successor to the previous Financial Crime Unit (FCU), this body (unlike its predecessor) is responsible only for the receipt, analysis and distribution of financial intelligence, including suspicious activity reports (SAR), and co-operation in such matters with agencies on- and off-Island, and with other FIU.

"Financial crime" is defined in the Financial Intelligence Unit Act 2016.

From 2018 the FIU is responsible for receiving notifications relating to UN and EU financial sanctions in the same way as SAR, sharing responsibility for sanctions with Customs and Excise.

Gambling Supervision Commission (GSC)

This independent body is responsible for the registration and supervision of various types of businesses involved in gambling in the Island - including machine gaming (with machine games duty payable to Customs and Excise), the land-based casino and online gambling (the latter being subject to gambling duty payable to Customs and Excise), and bookmaking (also liable to gambling duty).

It is able to co-operate with agencies in the Island, including the Police and Customs and Excise, through legal gateways, and has established a growing number of links with regulators of gambling in other jurisdictions.

Manx National Heritage (MNH)

Manx National Heritage is the Island's statutory heritage agency. One feature of its work is the licensing of exports from the Island of cultural items (including archaeological artefacts)

with a connection or importance to the Island². In this role it works closely with Customs and Excise. The licensing requirements cover removals to the UK, as well as exports to third countries.

Department of the Environment, Food and Agriculture (DEFA)

DEFA is the lead agency on the Island for matters relating to food, animal and plant health, ozone-depleting goods, dangerous goods, movements of endangered species (CITES) etc. Customs and Excise exercises import and export controls on behalf of DEFA.

2 Such licensing applies to removals to the UK as well as to other destinations. For export to places outside the UK a licence from Customs and Excise may also be required.

INITIAL CONTACT POINTS FOR OVERSEAS AUTHORITIES

Apart from Customs and Excise, there are a number of other departments that also deal with mutual assistance matters. The following is intended to enable overseas authorities to make contact with the appropriate department.

Time zone

The Island is in the same time zone as the UK.

Financial intelligence and financial crime, bribery and corruption

If your enquiry is one relating to intelligence regarding a financial enquiry you should contact the FIU.

Drug trafficking and customs fraud

If your enquiry relates to any drug trafficking or customs matter - such as the smuggling of contraband, fraud against your country's customs laws, or the laundering of the proceeds of such crimes - you should contact Customs & Excise.

International trade sanctions, UN and EU embargoes etc

If your enquiry relates to infringements of UN or EU trade sanctions and related matters you should contact the Sanctions Officer at Customs and Excise.

Financial sanctions

If your enquiry relates to infringements of UN or EU financial and economic sanctions you should contact the FIU.

Unlicensed banks and investment business, and other regulatory matters

If you require any information or assistance about a financial institution, or about Isle of Man company law and its corporate service providers you should contact the FSA.

If your enquiry relates to an insurance or pension provider you should contact the FSA.

Insider dealing and other financial market manipulation

A Treasury responsibility. However, in the first instance you are recommended to consult the Enforcement Division of the FSA.

Gambling, betting and gaming

If your enquiry relates to a bookmaker, online gambling operator or is related to any other form of gambling, in the first instance you should contact the Gambling Supervision Commission (GSC).

If your enquiry relates to taxes or duties on gambling, the evasion of such taxes or duties, and the laundering of the proceeds of such evasion, you should contact Customs & Excise.

Money service businesses (MSB) and e-money issuers

If your enquiry relates to a business offering bureau de change, money transmission or cheque cashing services, or an e-money operator, you should contact the FSA.

Import, export and trade licensing

If your enquiry relates to the issue of licences to import or export goods, including cultural objects or licences for the trade in certain goods between two or more third countries, then you should contact Customs & Excise. However, if the query relates to the removal from the Island of an item of archaeological or cultural importance to the Island you will need to contact Manx National Heritage (MNH).

You will need to speak to MNH even if the removal is only to the UK.

Money lenders

If your enquiry relates to a business offering a money lender service, you should contact the FSA Enforcement Division.

Legal enquiries, international mutual assistance and the restraint and forfeiture of criminal proceedings

If you have any question relating to the legislation concerning mutual assistance matters in the Island you should contact the Attorney General's Chambers.

If your enquiry relates directly to customs and excise legislation you should contact Customs & Excise.

Direct taxation

If your enquiry relates to direct taxes such as income tax, corporation taxation and related subjects you should contact Income Tax in the first instance.

General fraud, money laundering and other crime

If your enquiry relates to fraud and other crimes being investigated by police, or the laundering of the proceeds of crime, you should contact the Police.

Plant and animal health controls, CITES endangered species controls

Whilst Customs & Excise carries out import and export controls, and enforcement of the relevant legislation, responsibility for policy, and controls on movements to/from the UK, lies with the Department of Environment, Food and Agriculture (DEFA).

Cultural goods, antiquities, works of arts, archaeological items of importance to the Island

Licensing and the legislation and policies relating to the import and export of these items, including movements to and from the UK, is the responsibility of Manx National Heritage (MNH).

However, a licence for removal to any destination other than the UK may also be required from the Treasury, and Customs & Excise should be contacted.

Restraint Orders, Confiscation Orders, Civil Recovery (Civil Forfeiture) Orders

Under the Proceeds of Crime Act 2008 the Attorney General's Chambers is responsible for dealing with the enforcement in the Island of court orders for the restraint, confiscation or civil recovery of assets obtained in other jurisdictions.

Immigration

If your enquiry relates to an immigration matter, you should contact the Passport & Immigration Office.

Intellectual Property Rights

Customs & Excise is responsible for enforcement of controls in respect of intellectual property (IP) at import and export, involving counterfeit or pirated goods. The lead agency for enforcement within the Island is the Office of Fair Trading (OFT).

Cash movements

Customs & Excise is responsible for the control of cash movements and declarations are required for the import or export of sums in excess of €10,000, including that moving between the UK and the Island.

CUSTOMS AND EXCISE CONTACT DETAILS

Collector of Customs and Excise
PO Box 6
Custom House
Douglas
Isle of Man
IM99 1AG

Normal hours: 0830 to 1630 Monday to Friday
Fax: (01624) 661725
Tel: General: (01624) 648100
Out of hours: 0800 595000
Email: customs@gov.im
Website: <http://www.gov.im/Customs/>

Specific phone and fax numbers

	Phone	Fax	
Betting and gambling	648171	648101	
CITES (endangered species)	648110	648182	
Collector	648172	661725	Charles.coue@customs.treasury.gov.im
Customs (imports/exports)	648140	648117	
Drug trafficking	648110	648182	
Excise duties	648140	648117	
Export controls	648138	661725	
Financial enquiries	648110	648182	
General enquiries	648100	648101	customs@gov.im
Legislation enquiries	648138	661725	customs@gov.im
Money service businesses (MSB)	689380	689399	info@iomfsa.im
MTIC	648167	661650	
Sanctions	648138	661725	customs@gov.im
VAT Advice Centre	648130	648117	customsadvic@gov.im
VAT Visiting	648170	648159	assurance@customs.gov.im

CONTACT DETAILS FOR OTHER THAN CUSTOMS & EXCISE

HM Attorney General's Chambers

3rd Floor, St Mary's Courts, Hill Street, Douglas, IM1 1EU

Tel: (01624) 685452

Fax: (01624) 629162

Website: <http://www.gov.im/about-the-government/offices/attorney-generals-chambers/>

Email: GeneralMailbox.AGC@gov.im

Normal hours: 0900 to 1700 Monday to Friday

Financial Intelligence Unit (FIU)

Finch Hill House, Bucks Road, Douglas, Isle of Man, IM1 3DF

Tel: (01624) 686000

Fax: (01624) 686039

Email: fcu@gov.im

Normal hours: 0900 to 1700 Monday to Friday

The FIU is a member of the EGMONT Group of Financial Intelligence Units. Other EGMONT FIU can contact the FIU using the EGMONT channels of communication.

Financial Services Authority (FSA)

PO Box 58, Finch Hill House, Bucks Road, Douglas, Isle of Man, IM99 1DT

Tel: (01624) 689380

Fax: (01624) 689399

Website: <http://www.gov.im/fsc/>

Email: info@iomfsa.im

Normal hours: 0900 to 1700 Monday to Friday

Gambling Supervision Commission (GSC)

Ground Floor, St George's Court, Myrtle Street, Douglas, Isle of Man, IM1 1ED

Tel: (01624) 694331

Fax: (01624) 694344

Website: <http://www.gov.im/gambling/>

Email: gaming@gov.im

Normal hours: 0900 to 1700 Monday to Friday

Income Tax

Government Office, Bucks Road, Douglas, Isle of Man, IM1 3TX

Tel: (01624) 685400

Fax: (01624) 685351 / 685766

Website: <http://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/>

Email: incometax@itd.treasury.gov.im

Normal hours: 0915 to 1700 Monday to Thursday
0915 to 1630 Friday

The Treasury

Corporate Strategy Division, Government Office, Douglas, Isle of Man, IM1 3PU

Tel: (01624) 685586

Fax: (01624) 685662

Website: <http://www.gov.im/about-the-government/departments/treasury/corporate-strategy-division/>

Email: Admin.Treasury@gov.im

Normal hours: 0900 to 1700 Monday to Friday

Department of Environment, Food and Agriculture (DEFA)

Thie Slieau Whallian, Foxdale Road, St Johns, Isle of Man, IM4 3AS

Tel: (01624) 685835

Fax: (01624) 685851

Website: <http://www.gov.im/defa/>

Email: defa@gov.im

For import and export controls on plant and animal products, CITES (endangered species) etc.

Manx National Heritage (MNH)

Douglas, Isle of Man, IM1 3LY

Tel: (01624) 648000

Fax: (01624) 648001

Website: <http://www.gov.im/mnh/>

Email: enquiries@mnh.gov.im

For import and export controls on cultural goods, antiquities etc.

Immigration and Passport Office

Ground Floor, Government Offices, Bucks Road, Douglas, Isle of Man, IM1 3PU

Tel: (01624) 685203

Fax: (01624) 685210

Website: <http://www.gov.im/categories/travel-traffic-and-motoring/immigration/>

Email: immigration@gov.im

Office of Fair Trading (OFT)

Government Buildings, Lord Street, Douglas, Isle of Man, IM1 1LE

Tel: (01624) 686520

Fax: (01624) 686504

Website: <http://www.gov.im/oft/>

Email: iomfairtrading@gov.im

Normal hours: 0900 to 1700 Monday to Friday

Central Registry, (including the Companies Registry, Charities Registry, Civil Registry, Deeds Registry, Land Registry, Public Records Office and Probate Registry)

PO Box 345, St. George's Court, Upper Church Street, Douglas, Isle of Man, IM99 2QS

Telephone: (01624) 689389

Fax: (01624) 689397

Email: companies@gov.im

Website: <http://www.gov.im/ded/companies/companiesregistry.xml>

Normal hours: 9:00am - 5:30pm Mon-Thu

9:15am - 5:00pm Fri

THE OBTAINING OF INFORMATION CONCERNED WITH CUSTOMS, EXCISE OR VAT MATTERS

Customs

The Isle of Man is in a customs union with the UK. Therefore imports into one of the two countries are generally regarded as having been properly imported into the other.

Import, export and trade licences issued by the UK Department for International Trade: Export Control Organisation are treated in the Isle of Man as if the Treasury issued them in the Island. However, licences for exports from the Isle of Man of cultural goods and endangered species (CITES) would be required from the relevant issuing authority in the Island - and licences for imports into, or exports from, the Island of the following may be needed *in addition* to a licence for import/export to/from the UK -

- UN and EU licences (trade and financial sanctions) - Treasury
- general import and export licences - Treasury
- cultural goods, antiquities etc - MNH and Treasury
- endangered species, CITES goods - DEFA
- meat, plants, animals - DEFA

The Isle of Man is part of the customs territory of the EU, and EU customs law generally applies in the Island. The Union Customs Code and the Common Customs Tariff applies in the Island.

Mutual assistance arrangements between Member States of the EU, and between the EU and non-EU countries also have effect in the Island. Therefore any requests for assistance in customs matters that can be made to the UK under EU legislation can also be made to Customs & Excise in the Isle of Man.

Excise

For the purposes of most, but not all, excise duties, the UK and Isle of Man are treated as a single area. The law and procedures in the two jurisdictions are kept broadly in line, where they apply to duties on alcohol, mineral oil and tobacco goods.

The Island is also regarded as part of the EU Internal Market for the purposes of excise duties on alcohol, oil and gas, and tobacco. It is therefore a part of the EU's fiscal territory. Member States are instructed to treat transactions involving the Island as if they were ones involving the UK. Mutual assistance arrangements between Member States also apply to the Island (including mutual recovery of duty under the MARD Directive arrangements).

The Island and UK are also a single area for the purposes of pool betting duty and lottery duty (levied on Lotto, the national lottery), but not for duties on bookmaking (fixed odds and totalisator betting), machine or online gambling. The Island and UK are also separate jurisdictions for the purposes of other gaming law concerned with casinos, gaming machines etc. Note that Customs & Excise does not have a role in the control of casinos (these are controlled by the GSC).

VAT

The UK and Isle of Man are treated as a single area for value added tax. With a very few

exceptions, the law and procedures in the Island are maintained in line with those in force in the UK.

The Island is also regarded as part of the EU Internal Market for VAT purposes (being so designated in the principal VAT Directive) and as part of the EU's fiscal territory. Member States are instructed to treat transactions involving the Island as if they were ones involving the UK. Mutual assistance arrangements between Member States also apply to the Island.

The EU mutual assistance arrangements (including mutual recovery under the MARD Directive arrangements) that apply in the Island include those concerned with the VIES system for the administration of intra-EU movements of goods.

The VAT register in the Island is separate from the UK register, with the Isle of Man VAT registration numbers being prefixed with "000", "001", "002", "003", "004" or "005".

Cash Declarations

Since 2008 there has been a requirement to make a declaration to Customs and Excise when sending or taking out of, the Island "cash" of over €10,000. This applies regardless of the means of movement - on the person or in their baggage, or in freight or courier services and, since 2013, if sent to or from the Island in the mail.

The definition of "cash" is a broad one, wider than that adopted by the EU. For the current definition, and other details of the requirements please see Notice 9011 MAN on the Customs and Excise website.

Note that the requirement to declare cash applies even when travelling to and from the UK, or any other EU Member State - the Island is regarded as wholly outside the EU for the purposes of the EU cash declaration and money laundering laws.

Note also that this means you would be required to declare the cash when entering or leaving the UK or other Member State, in addition to making a declaration in the Island.

Enquiries relating to cash declarations etc should be addressed to Customs and Excise.

UNITED NATIONS AND EUROPEAN SANCTIONS AND OTHER IMPORT/EXPORT CONTROLS

The fact that the UK and Isle of Man are linked in a customs union means that import and export controls (“prohibitions and restrictions”) in force in the Island will generally mirror those in force in the UK.

The Island does impose some additional controls, particularly in the areas of plant and animal products. It is also regarded as a separate jurisdiction for the purposes of CITES trade in endangered species (and is not regarded as a part of the EU for the purposes of CITES controls), and for the movement of cultural goods.

Movements of CITES animals, plants and products into and out of the Island may require a licence from both the relevant UK or overseas authority *and* the Department of Environment, Food and Agriculture (DEFA).

Exports from the Island, including to the UK, of cultural goods that have some importance to the Island and its heritage would require a licence from Manx National Heritage, in addition to any other general export licence.

The Island’s Department of Economic Development (DED) does not issue import and export licences. Instead the Isle of Man Treasury can issue such licences, including licences required by UN sanctions measures. However, the policy is that anyone in the Island seeking an export or trade control licence must apply to the Export Control Organisation in the UK using that agency’s SPIRE online system. The Treasury can and would issue export licences for exports of cultural goods, after consultation with MNH and with the Arts Council England (which is responsible for such licences in the UK). For more information on exports and sanctions controls see the dedicated page on the Customs and Excise website.

The Island is fully committed to upholding international sanctions, whether imposed by the UN or EU. UN sanctions measures will apply in the Island, and Customs & Excise is the relevant enforcement authority - for both trade and financial sanctions.

Some EU trade sanctions will apply automatically in the Island. However, where they do not, or where EU financial sanctions are involved, the Island Government will take steps to give effect to them in domestic legislation. Again, the Customs & Excise Division would be the enforcement authority in most cases.

The stated policy of the IOM Government is to maintain its sanctions controls so that they compare to those in place in the UK.

Where UN or EU financial sanctions are involved, such as the freezing of the assets of named individuals and organisations, or the prohibition of investment in specified countries, Customs & Excise is responsible for administration and enforcement. Changes to lists of those affected by UN or EU sanctions in the Island are notified by media release on the IOM Government (www.gov.im) or Customs and Excise (www.gov.im/customs) website. It also publishes in Public Notice form via the Government website (www.gov.im) lists of prescribed individuals and organisations affected by the sanctions. The lists correspond to those published in the UK by HM Treasury (<http://www.hm-treasury.gov.uk/>).

THE OBTAINING OF INFORMATION RELATING TO GAMBLING, BETTING AND GAMING

In the Isle of Man there is a division of responsibility for gambling controls between -

- the Gambling Supervision Commission (GSC) - which licences operators and issues permits etc., and is generally concerned with social law aspects. It would also issue any relevant codes of practice, such as for anti-money laundering procedures

and

- Customs & Excise - which is concerned with the taxation of some areas of gambling (betting, some types of lottery, machine and online gambling), i.e. the revenue law aspects. It would also be concerned with investigation of suspected money laundering involving operators.

The Department of Economic Development (DED) also has a role in promoting the Island as a centre for online gambling operations.

Island law differentiates between different types of gambling -

pool betting	e.g. football pools. Whether online or by post. Licences issued by GSC. Gambling duty collected by Customs & Excise.
online gambling	including betting, bookmaking, sportsbook betting etc. Whether online or by telephone. Includes pari-mutuel or totalisator betting, ("sponsored pool betting"). Licences issued by GSC. Gambling duty collected by Customs & Excise.
lotteries	Local lotteries have to be registered with/approved by GSC. UK National Lottery games are legal in the Island. Lottery duty on National Lottery games collected by Customs & Excise.
casinos	There is one casino in the Island. The casino is regulated by the GSC. There is no casino duty, therefore no Customs & Excise involvement.
bingo	Regulated by GSC. There is no bingo duty, and therefore no Customs & Excise involvement.
gaming machines	Regulated and licensed by GSC. Machine Games Duty (MGD) collected by Customs & Excise.
bookmakers retail premises (betting shops)	Regulated and licensed by GSC. Betting liable to gambling duty, collected by Customs & Excise

OBTAINING OF INFORMATION IN CASES OF SERIOUS OR COMPLEX FRAUD

If your enquiry is one involving serious or complex fraud, the Island's authorities can use powers available under the Criminal Justice Acts 1990 and 1991 or the Proceeds of Crime Act 2008 to assist, investigate and/or obtain evidence.

Your initial approach should be to one of the agencies listed on pages 10 to 16.

You may be asked to submit an application to the Attorney General's Chambers for the matter to be investigated using the Attorney's powers under section 24 of the Criminal Justice Act 1990.

Section 24 grants the Attorney General powers to investigate where there are reasonable grounds to believe there is a suspected offence involving serious or complex fraud. This power would normally be delegated to either a police or customs officer. The power applies to crimes being investigated anywhere in the world.

The person under investigation (or any other relevant person) is served with a notice in writing requiring them to furnish information in connection with the investigation. Search warrants may also be obtained under section 24.

Section 21 of the Criminal Justice Act 1991 permits the Attorney General to assist authorities in another country to obtain evidence in the Island for the purposes of a criminal investigation or criminal proceedings in that country. Section 22 of the 1991 Act allows for a search warrant to be obtained for the purposes of obtaining such evidence.

Any request for the exercise of the powers available under section 21 should be sent to the Attorney General's Chambers.

See Appendix A for contents of a letter of request, the required undertaking, and the conditions that apply.

If your enquiry is one relating to a customs matter, (e.g. VAT, customs duties and controls, smuggling of contraband, UN or EU sanctions, excise duties, bookmaking and betting and gambling duties, or the laundering of money derived from crimes connected with such matters), the Customs & Excise Division may be able to assist using powers available to it under various customs legislation.

If your enquiry relates to financial crime, including fraud and UN and EU financial sanctions the FIU may be able to assist.

Island law now contains specific offences involving fraud, under the Fraud Act 2017.

What is meant by "serious and complex"?

There is no definition in the legislation. However, it should be emphasised that a crime can be serious without being complex, and vice versa. Ultimately, whether or not a crime is serious or complex, or both, is a matter of fact in every case.

There is also no specific offence of "fraud" in Manx law. Instead there are a number of individual criminal offences that require proof of dishonest conduct, e.g. theft, obtaining property by deception and false accounting.

A “serious” crime might include a fraud involving at least £250,000, or one that involves a serious breach of trust, or a matter of substantial public concern.

A “complex” crime might involve the number of financial transactions used to perpetrate or conceal any fraud, whether transactions crossed national boundaries, and the degree of sophistication employed.

THE OBTAINING OF INFORMATION IN DRUG TRAFFICKING CASES

The information relating to serious and complex fraud enquiries also relates in general to enquiries relating to drug trafficking and the laundering of the proceeds of drug trafficking.

The provisions of the Proceeds of Crime Act 2008 relating to money laundering also apply (see below).

Your initial contact should be with the Customs & Excise Division.

THE OBTAINING OF INFORMATION RELATING TO THE LAUNDERING OF THE PROCEEDS OF CRIME

If your enquiry relates to the investigation of the laundering of the proceeds of any crime, your initial contact point should be the FIU.

The Island's legislation on money laundering, and the requirements for institutions operating in the Island, is comprehensive, and penalties for breaches can be severe.

The Attorney General may authorise an investigation and supply of evidence under his powers.

Alternatively, the Police or Customs & Excise may be able to investigate using powers found in the Customs and Excise Management Act 1986 or the Proceeds of Crime Act 2008.

The Proceeds of Crime Act 2008 contains provisions relating to money laundering.

Codes of practice and guidance notes have been issued and apply to various types of institution. For more details contact the relevant regulatory or supervisory body -

Banks, investment business, corporate and trust service providers (fiduciaries), money service businesses (MSB)	FSA
Bookmakers, online gambling operators	Gambling Supervision Commission
Insurance companies and pensions providers	FSA

THE RESTRAINT OF THE PROCEEDS OF CRIME

The High Court in the Island has the power (under the Proceeds of Crime Act 2008) to issue restraint orders prohibiting the removal from the Island of money or any other thing which is believed to be, or is believed to represent, the proceeds of crime. Similar powers exist under anti-terrorism law.

Before a restraint order can be made there must be identifiable assets within the Island which can be properly said to be the proceeds of either drug trafficking or another crime.

Restraint orders obtained in courts outside the Island may be enforced by the courts in the Isle of Man under the provisions of orders made under the Proceeds of Crime Act 2008.

THE ENFORCEMENT OF OVERSEAS CONFISCATION AND FORFEITURE ORDERS

Overseas confiscation and forfeiture orders can be enforced in the Island. If a court in another jurisdiction makes an order relating to the proceeds of drug trafficking or any other crime, the Manx courts can enforce the order against assets held in the Island.

Enquiries and applications should be addressed to ICART at the Attorney General's Chambers.

It is important that any request is made under the correct piece of legislation (i.e. orders made under the Proceeds of Crime Act 2008).

Letters of request may be sent by fax, but must be then followed immediately by hard copy sent by post or courier. If the letter of request is not in the English language it should be accompanied by a full English translation.

There is no provision in Island law for the sharing of any property that is realised when a confiscation order made in another jurisdiction is enforced in the Isle of Man. However, the Treasury may transfer (upon such terms and conditions as the Treasury may determine) the whole or any part of a sum of money representing anything seized, confiscated or forfeited to authorities in any other country which participated directly or indirectly in the seizure, confiscation or forfeiture.

THE OBTAINING OF SWORN EVIDENCE BEFORE A COURT IN ALL TYPES OF CRIMINAL CASE

Section 21 of the Criminal Justice Act 1991 covers the application by off-Island authorities for evidence to be obtained in the Island. The Act does not impose any restriction on the type of offence under investigation or being prosecuted in the other jurisdiction.

In order to apply for sworn evidence to be obtained before a Manx court, a letter of request should be sent by either the court or tribunal with control over the case in question, or any other authority in the jurisdiction that has the power to issue such a letter of request, to the Attorney General's Chambers.

Letters of request may be sent by fax, but a hard copy should then follow immediately by post or courier.

The letter of request should contain the following -

- details of the court, tribunal or authority making the request - the letter should state that the person making the request is permitted to do so
- if criminal proceedings have been begun - details of the charges should be included
- if the case is still at the investigation stage - details of the charges that may be faced should be included
- a summary of the facts of the case
- details of the evidence you require

-
- the names of individuals or institutions whose representatives are required to provide evidence
 - whether the prosecuting or defence lawyers wish to be present when witnesses give testimony in court
 - if you consider your request should be considered urgent - precise reasons why this should be so

If the letter of request is not in English it should be accompanied by a full English translation.

The preconditions that must be met before the Attorney General can authorise assistance under a letter of request are -

- that an offence under the law of the country or territory in question has been committed or that there are reasonable grounds for suspecting that such an offence has been committed; and
- that proceedings in respect of that offence have been instituted in that country or territory or that an investigation into that offence is being carried on there.

Where it appears to the Attorney General that the request relates to a fiscal offence in respect of which proceedings have not yet been instituted he shall not exercise his powers unless -

- the request is from a country or territory which is a member of the Commonwealth or is made pursuant to a treaty to which the United Kingdom is a party and which extends to the Island; or
- he is satisfied that the conduct constituting the offence would constitute an offence of the same or a similar nature if it had occurred in the Island.

For the purpose of satisfying himself as to these matters the Attorney General shall regard as conclusive a certificate that is issued by such authority in the country or territory in question as appears to him to be appropriate.

If the Attorney General authorises assistance, the matter will be referred to the High Bailiff's Court.

It is possible for the defence to make application for evidence to be taken before the court. The responsible defence lawyer should follow the same procedure of preparing and sending a letter of request.

APPENDIX A

Contents of a Letter of Request

Generally speaking, a letter of request may be submitted to the Attorney General provided that either a criminal offence has been committed, or that there are reasonable grounds for suspecting that such an offence has been committed and is under active investigation. It is not necessary for any person to have been charged with a criminal offence, or for any proceedings to have commenced.

Contents of a letter of request

1. The identity of the person making the request, and confirmation that they are authorised to make such a request.
2. Details of the charges faced by the person under investigation in your jurisdiction, or the charges that he/she is likely to face.
3. A description of the facts of the case.
4. The reasons why you consider the alleged fraud under investigation is serious or complex or both.
5. If you require documents to be obtained from a bank or other financial institution, you should supply its name and address, together with any account details, and indicate the type(s) of document(s) that you want.
6. If a warrant to search premises is believed necessary, the exact reasons for that belief.
7. The identity of any magistrate, prosecutor, police or customs officer you wish to be present when the information requested is obtained.
8. If you think your request should be treated as being urgent, the precise reasons for this.
9. If you want to show a particular document to a witness, or wish to ask questions about, for example, specific transactions, please state precisely what it is you want asked.
10. Any requirement under your law that your courts may have for the authentication of any document. Normally photocopies of documents are provided by Island authorities, and it would be useful to know beforehand if these would require any particular form of authentication.
11. If you wish anyone to be interviewed, if you require the interview to be tape-recorded.

Letters should be in English, or be accompanied by a translation into English.

The letter should contain, or be accompanied by, an undertaking in the following form -

“UNDERTAKING

(Name of the case)

I *(name and description)* hereby UNDERTAKE that any information or material obtained in pursuance of any order obtained under *(state whether section 24, Criminal Justice Act 1990 or section 21, Criminal Justice Act 1991)* in respect of *(names of person or persons under investigation)* shall only be used for the purposes of the investigation into the affairs of the above-named persons, or any prosecution arising therefrom, and shall not be disclosed, directly or indirectly, to any other person or agency without the written consent of HM Attorney General for the Isle of Man.

Signature _____ Date _____”.

This undertaking should be signed by a senior officer of the investigating agency or, where appropriate, an examining magistrate or the prosecutor responsible for the conduct of the investigation or prosecution.

If, for any reason, it is considered necessary to make available to a third party some or all of the material obtained under a letter of request, permission should be sought, in advance and in writing, from HM Attorney General. The request for permissions should state clearly what material is involved, to whom it is to be passed and for what purpose.

If a release to a third party is authorised, then that third party will also need to provide their own separate undertaking, in the same format as shown above, indicating the use which they intend to put the material and undertaking that they will not disclose the material further without the express consent of HM Attorney General.

APPENDIX B

Tax Information Exchange Agreements (TIEA) and other similar agreements

The first TIEA was signed by the Treasury and representatives of the United States of America on 3 October 2002. It was followed by others with the Netherlands in October 2005 and representatives of the Nordic Council in October 2007.

Subsequently, TIEA, double taxation agreements and other similar agreements have been established with many other countries and territories.

For an up to date list of relevant agreements see -

<http://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/international-agreements/>

Amendments to this Notice

- | | |
|-------------------|---|
| 21 January 2016 | Reference to Protocol for Authorising the Board of Manx Ships at Sea" (under Article 17 of the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988) added in the foreword. |
| 22 September 2017 | Contents reviewed and updated; original Appendices A and B omitted and Appendices C and D renamed A and B. |

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Isle of Man
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