

Isle of Man Law

By J. Jeremy Callin, President of the Isle of Man Law Society

The Isle of Man is a dependency of the crown and Queen Elizabeth is the Lord of Mann (Mann is the ancient name for the Island) and Head of State, although the Island exercises extensive political and legislative independence through what is believed to be the world's oldest continuous parliament the Tynwald which celebrated its Millennium in 1979. Tynwald has been enacting legislation which governs the Isle of Man for many hundreds of years and indeed the oldest pieces of legislation still on the statute book are the Customary Laws Act 1417 and the Customary Laws Act 1422.

Legislation is passed by Tynwald which comprises of a popularly elected lower house called the House of Keys which consists of 24 members who are returned for a five year term and an upper house called the Legislative Council which consists of 10 members and includes as ex officio members HM Attorney General for the Isle of Man and the Lord Bishop (neither of whom may vote). Members of the Legislative Council are elected by the members of the House of Keys.

Legislation passed by Tynwald receives its royal ascent from Her Majesty in Council.

The principle sources of law on the Isle of Man are legislation passed by Tynwald and the common law. The Isle of Man's High Court Judges are called "Deemsters" who have jurisdiction over all civil and criminal courts and also the appellate jurisdiction the Staff of Government Division in conjunction with the Judge of Appeal an English Queens Counsel appointed for a five year term. The lower summary courts consist of stipendiary Magistrates known as the High Bailiff and Deputy High Bailiff and non-legally qualified Magistrates. The Isle of Man court system is composed of Her Majesty's High Court of Justice of the Isle of Man which in its civil jurisdiction has both a common law division and a chancery division and in its criminal jurisdiction deals with more serious criminal cases and jury trials at the Court of General Gaol Delivery.

Both civil and criminal appeals are to the Staff of Government Division a division of the High Court of Justice of the Isle of Man and the ultimate Court of Appeal in the Isle of Man is the Judicial Committee of the Privy Council.

Lawyers in the Isle of Man are known as Advocates which is a fused profession of Solicitor and Barrister. Advocates will act for clients both in the preparation of a case, (the traditional role of a Solicitor) and the presentation of that case in court (the traditional role of a Barrister). Advocates practice either in firms or as sole practitioners.

The Isle of Man Law Society is responsible for the regulation of Advocates and was constituted under the Isle of Man Law Society Act 1859 on the 5th day of July 1859. There are currently over 150 practicing Advocates on the Isle of Man 13 non practicing Advocates and some 24 student members of the Society comprised in 35 firms and sole practices.

There are considerable similarities between the law of the Isle of Man and the law of England and Wales in many areas of the law such as contract tort and criminal law where Isle of Man statute law and common law decisions have largely followed the path taken in England and Wales. Isle of Man law differs considerably in relation to land ownership and conveyancing practice although the recent introduction of the Land Registration Act 1984 has brought the practice of land purchase and land registration closer to the English model.

The law in the Isle of Man in relation to companies is also somewhat different to that in England and Wales and the Companies Act 1986 is indeed based on New Zealand corporate legislation. Other than that however most areas of commercial law on the Island will be familiar to practitioners in England and Wales. The law in relation to insolvency is also somewhat different to that in England and continues to be based on older English legislation and is now ripe for further review. The Isle of Man has its own system of taxation which includes all its own tax laws and currently has no capital taxes. VAT is payable on the Isle of Man.

The Common Law of the Isle of Man is contained in decisions made by the Deemsters at first instance and in the appellate division over a lengthy period of time and cases are reported in the Manx Law Reports and the Manx Law Bulletin. In addition decisions of the Superior Courts of England at both first instance but in particular on appeal and in the House of Lords have always been of strong persuasive authority in the Isle of Man although are not binding authority in the Isle of Man the only binding decisions being those from the Privy Council.

The Isle of Man is an effectively regulated jurisdiction both in terms of the court system and in relation to financial services regulation by the Financial Supervision Commission and the Insurance and Pensions Authority. The Financial Supervision Commission is responsible for regulation of the Companies Registry, Banks and Financial Institutions, Corporate Service Providers and Trust Service Providers (an area not regulated in England). The Insurance and Pensions Authority regulates all areas of insurance including the large captive insurance market on the Island and pension provision. The Island operates both a depositors and investors compensation scheme.

Whilst there are many advantages to individuals and companies wishing to set up a business or invest in the Isle of Man its political stability, highly developed regulatory system, sophisticated legal system, easy access to European Financial Centres and fiscal advantages make it a highly advantageous jurisdiction. The Island is innovative and Tynwald is presently considering the Companies Bill 2006 which aims to provide a new corporate vehicle similar to but considerably updated on that enacted in the British Virgin Islands and which is widely seen as an entity considerably in demand by professionals planning tax and corporate structures in the Island. The Companies Bill 2006 is presently proceeding before the Legislative Council.

Advocates on the Isle of Man can assist potential investors or businesses with a whole range of advice from corporate and commercial advice, advice on employment law, property acquisition and financing, together with tax advice and general advisory assistance.

The Isle of Man Law Society operates a full time secretariat who can be contacted on telephone: 01624 662910 or at e-mail: enquiries@iomlawsociety.co.im and can provide details of all Advocates and Advocates firms on the Isle of Man.