

## ADVOCATES (AMENDMENT) BILL

### EXPLANATORY NOTES

*These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, the Hon A Earnshaw MHK. They do not form part of the Bill.*

#### **GENERAL NOTE**

The Bill contains provision enabling the Isle of Man Law Society, as the regulator of the advocates' profession, to require information to be provided or documents to be produced for the purpose of investigating allegations of professional misconduct, breaches of practice rules and other contraventions (including anti-money laundering codes). At present, a request by the Society to an advocate to produce documents or give information can in certain cases be rejected by the advocate on the ground that a document or information is subject to legal professional privilege.

In England and Wales this loophole was closed by an amendment of the Solicitors Act 1974 made by the Administration of Justice Act 1985, giving express power to examine a solicitor's files. The regulator's powers in England and Wales are further widened by the Legal Services Act 2007, which enables information, electronic documents and explanations of information and documents to be demanded as well, gives powers to seek court orders (including orders against third parties), and imposes criminal penalties for suppressing documents and giving false information.

The Bill makes corresponding provision for the Isle of Man, inserting in the Advocates Act 1976 a new section and schedule based on the 2007 Act.

#### **CLAUSE 1**

Inserts a new section 26A into the Advocates Act 1976 introducing the new Schedule 1A as having effect for enabling the Council of the Law Society to obtain information or documents for the purpose of investigating whether there has been professional misconduct or breaches of statutory requirements, rules of practice or the anti-money laundering code.

#### **CLAUSE 2**

Contains the short title.

#### **SCHEDULE**

Inserts a new Schedule 1A into the 1976 Act enabling the Council of the Law Society by notice to require from advocates, etc the production of the information or documents for the purpose of an investigation. Failure to comply is an offence punishable by a £1,000 fine. The Council may also by notice require an explanation of any information or document, failure to comply also attracting a £1,000 fine. There is also power for the High Court, on the application of the Law Society, to stipulate time and place of production, including by third parties in the case of documents. These provisions may be backed up by a power to enter and search premises and seize documents. There is also a general power for the High Court to require information or documents from other persons in connection with an investigation. Along with further provisions about documents and other supplemental

matters there are offences of giving false information, falsifying documents, etc which attract penalties of 6 months' imprisonment and/or a fine of £5,000 on summary conviction and 2 years' imprisonment and/or an unlimited fine on information.