



LAW OFFICERS BILL 2014

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the member in charge of the Bill, HM Acting Attorney General.

Introduction

1. These explanatory notes relate to the Law Officers Bill 2014. They have been prepared by the Attorney General's Chambers in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the Legislative Council.
2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

Summary and background

3. A report on the operation of the Attorney General's Chambers conducted by Stephen Wooler CB, formerly Her Majesty's Chief Inspector of the Crown Prosecution Service ("the Wooler Report"), recommended that, as is the case in all the other jurisdictions in the British Islands, there should be a second Crown Officer in the Island capable of supporting the whole range of the duties of the Attorney General.
4. The Bill creates the office of Her Majesty's Solicitor General for the Island. It amends the definition of "the Attorney General" in the Interpretation Act 1976 so that that expression includes the holder of the new office in addition to the Attorney General and a person discharging the functions of the Attorney under a warrant under the Royal Sign Manual (as is currently the position with Her Majesty's Acting Attorney General). It is envisaged that only two Crown officers will be in post at any one time.

Clauses of the Bill

7. **Clause 1** gives the Act resulting from the Bill its short title.
8. **Clause 2** provides that the resulting Act, apart from sections 1 and 2 comes into operation on a day or days appointed by order made by the Council of Ministers. It also provides for the Act's automatic repeal on

the day after its promulgation or, if its provisions are not all in force at promulgation, on the day following the commencement of the last of its provisions.

9. **Clause 3** amends section 3(1) of the Interpretation Act 1976 so that, as a general rule of construction, references to the Attorney General will also include Her Majesty's Solicitor General for the Island. There are special provisions dealing with Tynwald (to which the extended definition does not apply) set out in clause 4.
10. **Clause 4** replaces section 7 of the Isle of Man Constitution Amendment Act 1919. Subsection (1) re-enacts in more modern form the existing provision. The position of the Attorney General as a member of Tynwald and the Council and his rights in those bodies are expressly preserved by subsection (2). Subsection (3) provides that the Attorney General's presence in Tynwald or the Council does not count towards the quorum of either body. Subsection (4) disapplies the general rule about the construction of references to "the Attorney General" and subsections (4) and (5) together provide a mechanism by which, if the office of the Attorney General is vacant, or the holder is unable for any reason to attend a sitting of Tynwald or the Council, the President may authorise the Solicitor General or a person discharging the Attorney General's functions under a Warrant under Her Majesty's Royal Sign Manual to attend instead. Subsection (6) provides that the person attending by virtue of subsection (5) has the same rights and privileges as the Attorney would have. Subsection (7) is included for completeness and reflects the opening proviso to the original section 7 of the 1919 Act.
11. **Clause 5** makes some amendments to legislation in consequence of the creation of the second Crown office. Hitherto the Government Advocate has acted in some respects as the deputy of the Attorney General. The post of Government Advocate will be abolished as part of the restructuring of Chambers recommended by the Wooler Report, and accordingly a reference to it is repealed. As there is now a second Crown Officer empowered to discharge the functions of the Attorney General the general rule in section 20(1) of the Interpretation Act 1976 which permits the Chief Minister to authorise someone else to discharge an officer's functions is disapplied in relation to the Attorney General. Finally (and for the avoidance of doubt) the Solicitor General is added to the list of office holders falling within the definition of "public sector employees" for the purposes of the Public Sector Pensions Act 2011.
11. The Bill —
 - (a) does have financial and manpower implications which are directly referable to the increase in the number of Crown Officers; and

- (b) is considered by Her Majesty's Acting Attorney General to be compatible with the Convention rights within the meaning of the Human Rights Act 2001.