



Isle of Man

Ellan Vannin

LAW OFFICERS BILL 2014

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Explanatory Memorandum

1. This Bill is promoted by Her Majesty's Acting Attorney General on behalf of the Council of Ministers.

Background

2. 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 Law Officer in the Island capable of supporting the whole range of the duties of the Attorney General.
3. 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 Law Officers will be in post at any one time.

Commentary on specific clauses

4. **Clause 1** gives the Act resulting from the Bill its short title.
5. **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.
6. **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.
7. **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 (4) 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.

8. **Clause 5** makes some amendments to legislation in consequence of the creation of the second Crown Officer post. 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 disappplied 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.

Manpower and financial implications

9. The Bill does have financial and manpower implications which are directly referable to the increase in the number of Crown Officers.

Compatibility with the Convention rights

10. The Bill 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.



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1 **A BILL** to make further provision about the discharge of the functions of the
2 Attorney General; and for connected purposes.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

3 **1 Short title**

4 The short title of this Act is the Law Officers Act 2014.

5 **2 Commencement and automatic repeal**

6 (1) This Act, other than section 1 and this section, comes into operation on
7 such day or days as the Council of Ministers may by order appoint.

8 (2) An order under subsection (1) may include such incidental and
9 transitional provision as appears to the Council of Ministers to be
10 appropriate.

11 (3) This Act is repealed —

12 (a) on the day after its promulgation; or

13 (b) if its provisions are not all then in operation, on the day following
14 the day on which the last of its provisions comes into operation.

15 (4) But the repeal does not affect the continuing effect of the amendments
16 made by sections 3 to 5.

17 **3 Interpretation Act 1976: section 3(1) amended**

18 In section 3(1) of the Interpretation Act 1976 in the definition of “**the Attorney**
19 **General**” for “includes” to the end substitute —

20 “includes —

21 (a) Her Majesty’s Solicitor General for the Island; and

22 (b) any person discharging the functions of Her Majesty’s
23 Attorney General by virtue of a warrant under Her
24 Majesty’s Royal Sign Manual;”.

1 **4 Isle of Man Constitution Amendment Act 1919: section 7 substituted**

2 For section 7 of the *Isle of Man Constitution Amendment Act 1919* substitute —

3 **“7 Constitution of Council**

- 4 | (1) The Council comprises the following members —
- 5 | (a) the President of Tynwald;
- 6 | (b) the Bishop and the Attorney General; and
- 7 | (c) eight members elected by the House (whether from their
- 8 | own membership or others) (“**elected members**”).
- 9 | (2) The Attorney General —
- 10 | (a) continues to be a member of Tynwald and of the Council;
- 11 | and
- 12 | (b) has the same rights to speak in either of those bodies as he
- 13 | had before the passing of the *Law Officers Act 2014*.
- 14 | (3) The presence of the Attorney General at a sitting of Tynwald or
- 15 | the Council does not reckon towards the quorum of either body.
- 16 | (4) The definition of “the Attorney General” in section 3 of the
- 17 | *Interpretation Act 1976* does not apply for the purposes of this
- 18 | section but subsection (5) applies if —
- 19 | (a) the office of the Attorney General is vacant; or
- 20 | (b) the Attorney General is for any reason unable to attend a
- 21 | sitting of Tynwald or the Council.
- 22 | (5) If this subsection applies the President may authorise —
- 23 | (a) Her Majesty’s Solicitor General for the Island; or
- 24 | (b) a person discharging the functions of the Attorney General
- 25 | by virtue of a warrant under Her Majesty’s Royal Sign
- 26 | Manual,
- 27 | to attend the sitting.
- 28 | (6) A person attending a sitting of Tynwald or the Council by virtue
- 29 | of subsection (5) has the same rights and privileges in relation to
- 30 | the sitting as the Attorney General, and subsection (3) applies to
- 31 | that person as it applies to the Attorney General.
- 32 | (7) For the sake of clarity, the substitution of this section made by
- 33 | section 4 of the *Law Officers Act 2014* does not revive any rule of
- 34 | law, right or custom in relation to membership of the Council
- 35 | which subsisted before the coming into operation of this section as
- 36 | originally enacted.”

- 1 **5 Consequential and minor amendments and repeals**
- 2 (1) In section 30(4) of the *Consumer Protection (Trade Descriptions) Act 1970*
- 3 (certificates of compliance with procedural requirements) omit “or the
- 4 Government Advocate”.
- 5 (2) In section 20(1) of the *Interpretation Act 1976* (appropriate authority may
- 6 provide for exercise of functions of office during absence or inability to
- 7 act of holder, or during vacancy) for “a judicial officer)” substitute “a
- 8 judicial officer or the Attorney General)”.
- 9 (3) In section 7 of the *Poisons Act 1979* —
- 10 (a) in subsection (3) omit “or Government Advocate”; and
- 11 (b) in subsection (4) omit “or the Government Advocate”.
- 12 (4) In section 33(3)(b) of the *Advocates Act 1995* omit “or as the Government
- 13 Advocate”.
- 14 (5) In section 3 of the *Public Sector Pensions Act 2011* after “the Attorney
- 15 General” insert “and Her Majesty’s Solicitor General for the Island.”.

IN THE COUNCIL

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A **BILL** to make further provision about the discharge of the functions of the Attorney General; and for connected purposes.

Approved by the Council of Ministers
for introduction in the Legislative
Council.

HM ACTING ATTORNEY
GENERAL

MARCH 2014