

## **General Memorandum on Conveyancing in the Isle of Man**

---

February 2006

15-19 Athol Street  
Douglas  
Isle of Man  
IM1 1LB

Tel: +44 1624 638300  
Fax: +44 1624 638333  
Email: [law@cains.com](mailto:law@cains.com)  
Web: [www.cains.com](http://www.cains.com)

## CONTENTS

1.	Separate Jurisdiction .....	3
2.	Land Law .....	3
3.	Unregistered Titles .....	4
4.	Manx Mortgages .....	5
5.	Tenant's Rights .....	5
6.	Liability of Original Tenant .....	6
7.	Planning & Highways Etc. ....	6

## **1. Separate Jurisdiction**

The Isle of Man has its own legal system and jurisprudence. English law generally has no direct application to the Isle of Man but the Manx legal system is based on principles of English common law shared by most Commonwealth countries.

The Island has its own bicameral legislature called Tynwald. The United Kingdom Parliament still legislates for the Island in respect of some subjects that are of common concern to both territories such as defence, nationality and immigration. The authority to do this is obscure but in practice not really questioned. Effectively, therefore, the Island is subject to two legislatures: Tynwald and Parliament.

The relationship of the Isle of Man with the European Union is set out in Protocol 3 to the Act of Accession annexed to the Treaty of Accession 1972 by virtue of which the United Kingdom became a member of the European Community. The Island is not a member state of the European Community nor is it an associate member. The effect of Protocol 3 is that the Island is part of the customs territory of the European Union and European Community law has direct application to the Island only for very limited purposes.

## **2. Land Law**

Although Manx land law and English have developed in slightly different circumstances, and have therefore taken some different routes, the basic concepts are now very much the same in both jurisdictions. The tenures which exist are freehold (called “customary freehold”) and leasehold, no incidents which would be thought unusual by an English conveyancer affect Manx freeholds and well drafted Manx leases mirror modern English commercial practice.

The chief current difference between the two systems is that there is no Manx equivalent of the Law of Property Act, 1925 of the United Kingdom and it is therefore possible to have legal interests in land for less than a fee simple or term of years absolute. This is of very little practical consequence in the modern context however.

### 3. Unregistered Titles

A system of compulsory registration of land commenced in the Island on 1st May 2002 but only in respect of the northern parishes of Ballaugh, Jurby, Andreas, and Bride. Compulsory registration has since been extended to the more populated parishes of German, Michael, Lezayre and Maughold from 1st May 2003. The Manx registration system is based on that in use in Northern Ireland but would be familiar to anyone with experience of the English system.

Even now, therefore, the majority of the Island operates on an unregistered basis but with a system of registration of title deeds, similar to those which operated in Middlesex and Yorkshire. In the Manx system, deeds and documents affecting the freehold title and leases for terms in excess of 21 years are deposited ("recorded") in the Deeds Registry which is a public registry open to inspection by all.

The validity of transactions between the parties does not depend on recordal, but a third party will not be bound by a transaction until such time as the deed has been put on record unless he has actual notice of it. Priority of dealings is determined by the precise time of recordal of the deeds concerned which time is marked on the deed as it is taken into custody by the Registrar.

A fee is payable to the Registrar upon recording the deed. With effect from 2nd August 2004, in the case of conveyance or a lease at a premium, the rate is £4.00 per £1,000 of the consideration, in the case of a mortgage, a flat fee of £37.00 is attracted and, in the case of a lease at an annual rent, £4.00 per £1000 of the consideration.

In the case of a lease or assignment of lease where the consideration is rent only, the monetary consideration for the lease will shall be taken to be

$$P + 10R$$

Where P is the premium for the lease (as declared in the deed) and R is the highest ascertainable amount of annual rent reserved by the lease

There is no equivalent to stamp duty in the Isle of Man.

## **4. Manx Mortgages**

A Manx mortgage (called A conditional bond and security) consists of a promise to repay, coupled with a “conveyance in security” of the property to the mortgagee. Notwithstanding the use of the word “conveyance” the mortgagee has a security interest only and, under the general law, has no right to take possession. If it is wished to do so, this position can be modified by contract in the terms of the mortgage.

Likewise, notwithstanding the lack of equivalent to the Law of Property Act noted above, it is possible to arrange for the appointment of a receiver but this must be done by contract.

Without these special provisions, the usual means of enforcement of a Manx mortgage is for the mortgagee to sue the defaulting mortgagor on the promise to repay, obtain judgement and execution and put the same in the hands of the Coroner (a court official) who will arrest the property and sell it by public auction without reserve. In the context of domestic property at least, this system has distinct advantages of speed and certainty of obtaining a sale added to the mortgagee incurring none of the potential liabilities of a mortgagee in possession and having no responsibility to see that the best (or indeed any particular) price is obtained.

## **5. Tenant’s Rights**

There is no direct equivalent to the Landlord and Tenant Act 1954 and its amendments. The Island has a Tenancies of Business Premises Act 1971 which provides a measure of security of tenure for business tenants which arises after they or their predecessors, assignors of the same lease, have been in occupation of the premises for a period of not less than 5 years for business purposes. On the termination of qualifying a tenancy, the tenant who wishes to renew and cannot negotiate a renewal to his satisfaction, can apply to the Court within the time limits for the grant of a further tenancy of up to 3 years. The Court has discretion to refuse on grounds similar to those in the English legislation. The tenant may make applications for further renewals without limit of number.

## **6. Liability of Original Tenant**

The principle of privity of contract continues to apply and has not been modified by statute in the Isle of Man. Accordingly, the original tenant is liable for the life of the lease unless specifically released by the landlord.

## **7. Planning & Highways Etc.**

Below the Government of the Island there is a stratum of Local Commissioners for the rural parishes and the four towns. With the exception of the Commissioners for Ramsey and the Borough of Douglas, these bodies have powers equivalent to those of an English Parish Council. The Town Commissioners have slightly more extensive powers but they do not extend to highways or planning control, both of which are dealt with by departments of the Isle of Man Government. Planning law and the law relating to highways is based on and very similar to the law in England and Wales although somewhat less developed.

Information equivalent to that obtained by making a local search in England has to be gathered by individual searches by either to the Local Commissioners or Departments of Government concerned. The process typically takes 10-15 working days. In urgent cases, personal searches can be made with most of the respondents.

**IMPORTANT NOTE**

**This document does not constitute legal advice. It is summary in nature; reference should be made to the detailed provisions of the relevant law and legislation. Professional advice should be sought in relation to specific circumstances and matters.**

**For further information, please contact:**

**Jeremy Walton      [jeremy.walton@cains.com](mailto:jeremy.walton@cains.com)**

**Cains**

Cains Advocates Limited

15-19 Athol Street, Douglas, Isle of Man IM1 1LB

Tel: +44 1624 638300      Fax: +44 1624 638333

Email: [law@cains.com](mailto:law@cains.com)      Web: [www.cains.com](http://www.cains.com)

Directors: A J Corlett, R V Vanderplank, J R G Walton, S F Caine, P B Clucas, M T Edwards.

Cains is the trading name of Cains Advocates Limited, an incorporated legal practice in the Isle of Man with registered number 102780C.

Registered Office: 15-19 Athol Street, Douglas, Isle of Man IM1 1LB