

## Isle of Man Companies

(fees quoted are exclusive of VAT)

### Introduction

The Isle of Man is an island of 221 square miles located in the Irish Sea and is situated in the centre of the British Isles between Scotland, England, Ireland and Wales. It is a self-governing dependent territory of the Crown which is not part of the United Kingdom. The currency is Manx Pound, which is on par with the UK Pound.

The Isle of Man Companies Act 2006 introduced the new corporate vehicle known in the industry as the New Manx Vehicle or NMV. It was enacted to bring the Isle of Man company law up to date and to allow for simplification of the process to structure, incorporate and manage an offshore company or IBC in the Isle of Man.

The Companies Act 2006 ("the Act") received Royal Assent on the 16th October 2006 and came into operation on the 1st November 2006. The Act is, with the exception of the provisions relating to liquidation and receivership, a stand-alone piece of legislation. Companies incorporated under it ("2006 Act companies") will co-exist with present and future companies incorporated under the Companies Acts 1931-2004 ("1931 Act Companies").

The NMV follows the international business company model available in a number of other offshore jurisdictions. The 2006 Act is based on familiar concepts it sweeps away a number of the traditional company law formalities, including the concept of authorised share capital, the requirement to hold an Annual General Meeting, the requirement to maintain capital (subject to solvency), the requirement to have a company secretary, the prohibition on financial assistance and the number of compulsory registry filings. The result is a modern, flexible and simplified corporate vehicle that will be attractive to business.

Most companies already in place in the Isle of Man which were incorporated under the previously operational Isle of Man Company Legislation or the Companies Acts 1931-2004 can now convert to become IBC's governed by the rules of the New Manx Vehicle.

### Requirements:

- Every company incorporated under the Companies Act 2006 must have a registered officer /agent in the Isle of Man. Only persons holding an appropriate licence issued by the Isle of Man Financial Supervision Commission can act as a registered agent.
- A company must at all times have a registered office at a physical address in the Isle of Man.
- Unlike 1931 Act companies, a 2006 Act company can have a single director which may be an individual (or a body corporate subject to restrictions).

A body corporate will only be eligible to act as a corporate director if it, or another body corporate of which it is a subsidiary, is:

- the holder of an appropriate licence issued by the Isle of Man Financial Supervision Commission under the Isle of Man Fiduciary Services Acts 2000 and 2005; or
- permitted to act as a corporate director by regulations made pursuant to the Act
- Must have at least one member. Bearer shares are not permitted.
- There is no requirement for companies governed by the Companies Act 2006 to have a company secretary.
- There is express authority in the Act to enable telephonic or electronic board meetings to be held provided that all directors participating in the meeting can communicate with each other.
- 2006 Act Companies must maintain minute books of meetings and resolutions passed by its directors, members and classes of members. If these minutes are not kept at the office of the registered agent, the directors are required to advise the registered agent of the physical address where such records are kept.

- NMV will be required to file both an annual return and an annual tax return. With effect from 6<sup>th</sup> April, 2006 all Private Limited Companies and Limited Liability Companies pay an annual charge of £250
  - Isle of Man companies may be registered for VAT purposes and the VAT prefix will be "GB" which is recognised in Europe.
  - Companies Act 2006 does not recognize concept of capital maintenance this has been replaced by a requirement for companies to satisfy a solvency test. The Act does not require a company which issues shares to have an authorised share capital. Shares may be issued with or without a par value.
  - **Filing** - 2006 Act Company is required to file the following with the Registrar:
    - its memorandum and articles and any subsequent amendments;
    - any change in its name;
    - any change of its registered office address;
    - any change of its registered agent;
    - its annual return, within one month of the company's return date;
    - any applications and filings in connection with its dissolution, restoration or winding up; and
    - any applications and filings in connection with any re-registration, scheme of merger, consolidation or arrangement, transfer of domicile or conversion into a protected cell company.
  - There is no requirement for the company to file with the Registrar details of any change in its directors as they occur (although these details will be required to be disclosed on the company's annual return), any increase or reduction in its share capital, any alteration to its share capital, any allotment of shares or any members resolutions (other than as required in connection with any of the matters listed above). NMV can elect to file such changes. If a company makes such an election it must notify the Registrar of any changes to the details held on the relevant register(s) within a month of the change taking place.
  - A 2006 Act company is required to register any charge which it creates with the Registrar within one month after the date of its creation (or the date of acquisition of the property). Failure to register a charge will result in the charge being void against the liquidator and any creditor of the company.
  - If a 2006 Act company neglects to file a charge with the Registrar, the company may submit the charge to the Registrar for late registration. However, any late registration of a charge will be subject to the rights of any person acquired during the period between the date of creation of the charge and the date of its registration.
  - **Accounting** – In the case of companies owned by non-residents and having no IOM source income it is not necessary to have accounts audited or to file accounts in the IOM. Whilst there is no requirement to file audited financial statements with the authorities, it is important to note that a company is required to keep financial records, which reflect the financial position of a company. A tax return needs to be filed. The Act requires a company to keep reliable accounting records which:
    - correctly explain the transactions of the company
    - enable the financial position of the company to be determined with reasonable accuracy at any time;
    - allow financial statements to be prepared.
- A 2006 Act company must also retain such invoices, contracts and other information as are necessary to allow the company to document:
- all sums of money received and expended and the matters in respect of which the receipt and expenditure took place;
  - all sales and purchases; and
  - the assets and liabilities of the company.
- Failure to maintain accounts or to make them available for inspection at a company's registered office is an offence punishable by imprisonment or a fine. The Assessor of Income Tax reserves the right to call in the financial records for inspection.

- **Members** - subject to contrary provision in the Act or a company's memorandum or articles, the members exercise their powers by resolutions:
  - passed at a meeting of the members; or
  - passed as a written resolution.

Resolutions passed at a members meeting require the approval of a member or members holding in excess of 50% of the voting rights exercised in relation thereto (subject to any contrary provision in the Act or in the company's memorandum or articles).

Telephonic or electronic members' meetings may be held.

Members' written resolutions will require the agreement of all of the members entitled to vote or of a member or members holding such percentage of the voting rights as is specified in the memorandum or articles (subject to any requirement in the Act for any resolution to be passed by a particular majority).

Written resolutions can be consented to in writing or by email, telex, fax or other electronic communication without the need for any notice.

The terms "ordinary", "special" and "extraordinary" resolution are not used in the Act.

- **0% tax rate for resident companies** - royal assent was given on 11 July 2006 to both the Isle of Man Income Tax (Amendment) Act 2006 and the Income Tax (Corporate Taxpayers) Act 2006.

The 0% tax regime for companies is now in force in the Isle of Man and has effect from 6 April 2006. The 0% rate will be generally applicable to all companies on all forms of income with two exceptions:

- income from land and property in the Isle of Man will be taxed at 10%
- profits from banking activities will be taxed at 10%

Isle of Man companies with non resident members will not be required to pay a distributable profit charge and they effectively be taxed at 0% unless they fall within one of the two exceptions mentioned above.

Resident companies will pay an annual corporate tax charge of £250 for the year ended 5 April 2007.

## Information required for registration:

- Proposed name(s) for approval. It is advisable to give several alternatives.
- due diligence questionnaire
- Main objects

## Time taken to incorporate:

- The name approval from the Companies Registry normally takes 48 hours. Once approved and reserved, incorporation normally takes 14 working days.
- If using the word "Holding" the Registry will require evidence within six months of incorporation that the company is a holding company within the meaning of the Section of the Companies Act 1974

Formation Costs	
Incorporation	£1,400
Registered office	£1,000
Registered agent	£1,000
Resident Nominee Secretary	£ 1,000

Non resident Nominee Director	£300
<b>Annual costs thereafter:</b>	
Registered office	£1,000
Registered agent	£1,000
Resident Nominee Secretary	£1,000
Non resident Nominee Director	£300
Resident Director (available, please enquire regarding fees)	TBA
Submission of Annual return filing fee	£90
Annual Corporate Charge payable on 1 <sup>st</sup> January	£250

Additional charges apply for courier and notarisation / apostille.

\* Accounting services, fees will be charged on a time-spent basis

\*\* Maintenance and accounting services, fees will be charged for additional services on a time-spent basis.

PLEASE NOTE WE REQUIRE ALL CLIENTS TO SATISFACTORILY COMPLETE OUR DUE DILIGENCE REQUIREMENTS AND COMPLY WITH THE MONEY LAUNDERING REGULATIONS 2007.