



A Guide to  
Isle of Man Companies

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**The Isle of Man has been pre-eminent in the creation of innovative corporate legislation, the most recent examples being the introduction of the 2006 Company and Isle of Man Foundations in 2012.**

The first Companies Act in the Isle of Man was enacted in 1865, following the United Kingdom companies' legislation in 1862. However, current legislation is based on the Companies Act 1931, which was in turn based on the United Kingdom Companies Act 1928. Subsequent amending legislation has modified the original act considerably.

The Companies Act 2006 introduced a new form of company based on the International Business Company Act model. Also known as the "New Manx Vehicle" it is similar to a British Virgin Islands IBC and is far more flexible than a 1931 company

## Types of Companies

Companies may be:

- Limited by shares
- Limited by guarantee
- Limited by guarantee and having a share capital ("hybrid companies")
- Having a share capital with unlimited liability

Companies limited by guarantee do not have a share capital. Members are elected and can resign. Membership is not transferable. Members are usually required to pay a subscription which constitutes the basic capital of the company.

Companies limited by guarantee and having shares may have members who hold shares, and members who do not.

Companies having a share capital with unlimited liability have a share capital in exactly the same way as a company limited by shares, but there is no limit to the liability of members.

## Private and Public Companies

All 1931 Act companies are designated as either public companies or private companies. Private companies are not permitted to offer their shares or other securities to the general public. They are also not required to file their annual accounts at the Companies' Registry with their annual return.

There are no restrictions on the number of members of a private company.

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## Companies Limited by Shares

This information applies only to 1931 Act companies limited by shares.

### Authorised Capital

Every company must state in its memorandum of association the amount of authorised share capital with which it is to be registered and how such share capital is to be divided into shares of a fixed amount.

The authorised capital may be increased, or re-organised by resolution of the company in general meeting. The authorised capital of a company may also be reduced by the company in general meeting.

The issued share capital of a company may, under certain circumstances, be reduced. The capital maintenance rules are in place to ensure that creditors of the company are protected. In circumstances where shares are issued as redeemable, the reduction of capital only needs to take place in accordance with the rights attached to the shares, subject to the company having sufficient distributable funds to redeem the shares.

A company may have different classes of shares each of which may have different rights attached to the shares.

The authorised share capital of a company can be registered in any valid currency and the shares can be denominated in any amounts. Unusually, the IOM does allow for the issuing of fractions of shares however, the practicality of maintenance of share registers, in practice precludes the use of fractional shares.

### Issued Capital

A private company must have a minimum of one share in issue while a public company must have a minimum of two shares in issue.

Further shares can be issued up to the amount of the authorised capital, and shares cannot generally be issued at a discount.

A public company that wishes to make an offer of shares to the public must first register a prospectus with the Companies Registry. The prospectus must contain information that would be material to a potential investor.

There is a prohibition against the creation of bearer shares in the Island.

## Limited Liability Companies

An Isle of Man Limited Liability Company (LLC) is governed by the Limited Liability Companies Act 1996.

The documents which govern the LLC are the articles of organisation, which are registered at the Companies Registry and appear on the public record, and the operating agreement, which is a private document covering the internal regulation and control of the LLC. Once satisfied that the appropriate documentation has been received, the Companies Registry will issue a certificate of organisation which is proof of registration.

LLCs do not have directors and the members of the LLC can manage its affairs. However, it is permissible to appoint one or more managers to manage the LLC in accordance with the terms of the operating agreement.

The liability of the members is limited to the amount of their capital contribution as set out in the articles of organisation.

Membership is not transferable or assignable.

There is no statutory requirement for any formal meetings of members, nor is there any requirement for the preparation of annual financial statements, although the Act does require that "the accounting records shall be sufficient to show and explain the company's transactions".

Charges on the assets of the LLC must be registered, as is the case with a company. Where appropriate, any amendments to the Articles of Organisation must be filed at the Companies Registry.

An annual return must be made to the Companies Registry, setting out the details of the members and any manager. Any changes that are made to the LLC during the year must be notified to the Companies Registry on the appropriate form.

In many cases, conventional companies are complex and costly to administer. The requirement for the separation of ownership (shareholders) from management (directors), the need for annual general meetings, etc. are inappropriate for a small holding company, or a small trading business. The LLC can offer an alternative.

## Company Limited by Guarantee

A company Limited by Guarantee has no share capital, and thus no shareholders. It is essentially a mutual company.

Although a member can be elected into membership without being required to contribute any capital, the election to membership is nonetheless acknowledgement that a guarantee of an agreed amount exists. The company can call on the member to pay this amount. The prescribed amount is set out in the memorandum of association.

While membership in a guarantee company is not transferable, members can resign (in which case his guarantee last for a further twelve months) and new members can be elected.

## Unlimited Companies Having a Share Capital

This form of company is rarely used. When the Companies Acts were originally enacted in the nineteenth century, it was intended that partnerships would be limited to twenty members or less, and that this form of company would be used for larger 'partnerships'.

## Companies Limited by Guarantee and Having Shares – "Hybrid Companies"

As the name 'Hybrid' company implies these are companies which combine the features of both companies limited by shares and companies limited by guarantee.

Hybrid companies may be used as an alternative to a trust and can have many of the characteristics of a foundation. This can be of advantage for those in Civil Law jurisdictions where the concept of a trust is not recognised.

This type of company is rarely used and no longer exists in many jurisdictions.

## Protected Cell Companies

The Isle of Man Government introduced PCCs in 2004 initially to carry on insurance business in the Isle of Man but it can now be used for a number of business purposes. The 2006 Company Act permits the use of PCCs for any business purpose.

**For more details see our brochure on Protected Cell Companies.**

## Isle of Man 2006 Companies

The introduction of the Companies Act 2006 in the Isle of Man on 1st November 2006 marked the biggest change in Isle of Man company law for seventy five years.

This modern, cost effective and flexible vehicle for business incorporation has been developed for today's fast moving and sophisticated global market place. Its introduction, alongside the Companies Acts 1931-2004, which also remain in place, is a testament to the excellent working relationship which our Government and private sector enjoys on the Island and through which the new legislation has been developed in close cooperation.

**For more details see our brochure on The 2006 Company.**

## Isle of Man Foundations

In November 2011 new legislation was passed on the Isle of Man known as the Foundations Act. The Act came into force on 1<sup>st</sup> January 2012.

A foundation is a legal concept more common in civil law jurisdictions and has never before been a legal entity within Manx law.

A foundation is an incorporated entity which may be described as a self-owning legal person. It is capable of holding assets and property; it can sue and be sued.

Being an incorporated entity, a foundation can enter transactions in its own name. It has no "owner" so the person who establishes the foundation cannot be liable for its debts.

A foundation is often described as a combination of a trust and a company, and it does indeed have many of the characteristics of both.

A foundation is similar to a company in that it has limited liability.

A trust is a legal relationship between a settlor, a trustee and a beneficiary. A foundation is a separate legal person and has the facility to own and manage assets in its name and arrange funding.

Unlike trusts, foundations can exist in perpetuity.

A primary difference between a foundation and a limited company is that a foundation may not enter into commercial trading that is not identical to the foundation's objects. By holding a trading subsidiary it is possible to circumvent this.

**For more details see our brochure on Isle of Man Foundations.**

## Overseas Companies Trading in the Isle of Man

### Registration

A company incorporated outside the Isle of Man that has established a place of business in the Isle of Man, must within one month of establishing a place of business in the Isle of Man register in the Isle of Man as a foreign" company under the Companies Act 1931.

It must lodge with the Companies Registry:

- a. A certified copy of the memorandum and articles of association (or the equivalent), with a certified translation if not written in English;
- b. Details of the directors and secretaries of the company as required for a 1931 Act company;
- c. The name and address of a person resident in the Isle of Man authorised to accept on any notices required to be served on the company.

### Disclosure

A foreign company registered in the Isle of Man must disclose all details relating to its incorporation and structure.

## Partnerships

### Legislation

The law relating to partnerships is contained in the Partnership Act 1909. This provides for two types of Partnership:

- General Partnership
- Limited Partnership

### Definition of a Partnership

"Partnership is the relationship which subsists between persons carrying on a business in common with a view to profit".

A company incorporated under the Companies Acts or any other Act of Tynwald is not a Partnership within the terms of the Partnership Act

Any association of more than twenty persons formed for the purpose of carrying on any business in common with a view to gain or profit must be registered under the Companies Acts and may not be a Partnership under the Partnership Act 1909, but this is modified by excluding from this prohibition:

- a. Firms of advocates (Manx lawyers), all of whose partners are advocates;
- b. Firms of accountants, all of whose partners belong to recognised bodies;
- c. Firms of stockbrokers in a Stock Exchange, all of whose partners are members of that Stock Exchange;
- d. Any other firms specified by the Isle of Man Treasury by regulation.

**For more details see our brochure on Isle of Man Partnerships**



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