



**Isle of Man**

*Ellan Vannin*

**AT 17 of 1995**

**ADVOCATES ACT 1995**





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## ADVOCATES ACT 1995

### Index

Section	Page
<b>PART I – THE LAW SOCIETY</b>	
1 Constitution of the Law Society.....	7
2 General functions of the Society .....	8
3 Powers of the Society .....	9
4 Subscriptions .....	10
5 President and Vice-President of the Society .....	10
6 Council of the Society .....	10
7 Management of Society by Council.....	10
8 Power of Council to deal with property .....	11
9 Power of Council to borrow money .....	11
10 General meetings.....	11
11 Committees and other bodies .....	11
12 Power of Council to elect members .....	12
13 Bye-laws.....	12
14 Service of documents .....	14
<b>PART II – QUALIFICATION AS AN ADVOCATE</b>	
15 Advocates .....	15
16 Qualification for an advocate’s commission .....	15

17	Qualification for issue of temporary advocate's licence.....	16
18	Regulations.....	17
<b>PART III – ADVOCATES' FEES</b>		<b>18</b>
19	Advocates' fees: general principles.....	18
20	Litigation and conveyancing fees .....	18
21	Advocates' fees committee and regulations.....	19
22	All bills subject to assessment.....	20
23	Assessment of bills .....	20
24	Appeals from Chief Registrar .....	21
25	Part III: supplemental .....	22
<b>PART IV – ADVOCATES: INCORPORATED PRACTICES</b>		<b>22</b>
26	Incorporated practices .....	22
27	Penalty for pretending to be a body recognised under s 26.....	23
<b>PART V – NOTARIES</b>		<b>23</b>
28	Restriction on acting etc as a notary public .....	23
29	Licensing of notaries .....	24
30	Offences under Part V .....	24
<b>PART VI – GENERAL</b>		<b>24</b>
31	Offences: bodies corporate.....	24
32	Interpretation.....	25
33	Amendments, repeals and transitional.....	25
34	Short title, construction and commencement.....	26
<b>SCHEDULE 1</b>		<b>29</b>
AMENDMENT OF ENACTMENTS		29
<b>SCHEDULE 2</b>		<b>29</b>
REPEAL OF ENACTMENTS		29

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<b>ENDNOTES</b>	<b>31</b>
TABLE OF LEGISLATION HISTORY	31
TABLE OF RENUMBERED PROVISIONS	31
TABLE OF ENDNOTE REFERENCES	31



**Isle of Man***Ellan Vannin*

## ADVOCATES ACT 1995

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*Passed:* 19 October 1995  
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**AN ACT** to repeal and replace with amendments enactments relating to the Isle of Man Law Society, advocates and advocates' costs; to provide for the appointment of Notaries Public; to regulate the provision of advocates' services in the case of incorporated practices; and for connected purposes.

### PART I – THE LAW SOCIETY

#### 1 Constitution of the Law Society

- (1) There shall continue to be a Society called the Isle of Man Law Society (in this Act referred to as “the Society”), being the Society constituted under the Isle of Man Law Society Act 1859 and existing at the commencement of this Act.
- (2) The Society shall consist of —
  - (a) ordinary members, being persons who either —
    - (i) were advocates and members of the Society immediately before the commencement of this Part; or
    - (ii) hold an advocate's commission issued under Part II;
  - (b) associate members, being persons who are registered under the *Legal Practitioners Registration Act 1986*;
  - (c) honorary members;
  - (d) such other persons as may be eligible under bye-laws made under this Part,

and who shall have been elected members of the Society in accordance with this Part and bye-laws under this Part or, in relation to those

persons referred to in paragraph (a)(i), in accordance with the *Isle of Man Law Society Act 1859* and bye-laws under that Act.

- (3) The Society shall be a body corporate, with perpetual succession and a common seal, and shall be capable of holding and selling real and personal property and of doing and suffering all that bodies corporate may do and suffer.
- (4) A person who is a member of the Society under subsection (2)(b) to (d) shall not be treated as having any legal or equitable interest in the assets of the Society.
- (5) The First Deemster shall be Visitor of the Society, with full power and authority, from time to time, to inquire into, compromise, and redress any grievances, abuses, or differences which may arise or happen concerning the government or affairs of the Society, or the admission or expulsion of any member.
- (6) The Visitor shall not be an ordinary member of the Society.

## 2 General functions of the Society

- (1) The general functions of the Society shall be to —
  - (a) promote and encourage proper conduct among the members of the legal profession;
  - (b) exercise its powers for the purpose of —
    - (i) preventing illegal, dishonourable, or improper practices by members of the Society; and
    - (ii) stopping any such practice as comes to the notice of the Society;
  - (c) preserve and maintain the integrity and status of the legal profession;
  - (d) promote opportunities for the acquisition and diffusion of legal knowledge;
  - (e) institute programmes to encourage the publication of texts relating to and for instruction of members of the Society and others in the laws of the Island;
  - (f) maintain a Law Library for the use of members and others in accordance with bye-laws under section 13(2)(g);
  - (g) assist in and promote the reform of the law;
  - (h) provide means for the amicable settlement of professional differences between members of the legal profession;
  - (i) promote the interests of the legal profession and the interests of the public in relation to legal matters.

- (2) The Society shall have such other functions as are conferred on it by this or any other enactment.

### 3 Powers of the Society

- (1) The Society shall have all such powers, rights, and authorities as are reasonably necessary or expedient for or conducive to the exercise of any of its functions.
- (2) Without prejudice to subsection (1), the Society shall, in addition to any other powers conferred on it by this or any other Act, have the following powers —
- (a) to provide or arrange for the provision of services and facilities for members, including seminars and educational and training services and facilities;
  - (b) to publish or arrange for the publication of such periodicals, pamphlets, or other publications as it may consider of benefit to the public or to advocates in relation to the practice of the law and the activities of the Society;
  - (c) to institute prosecutions against advocates or other persons for the breach of any enactment relating to the practice of the law;
  - (d) to appoint any advocate to perform any work or services for the Society, or to appear before any court, tribunal, or other body in any of the foregoing matters or in any other matters in which the Society is concerned or interested;
  - (e) to pay all costs, witnesses' expenses, and other payments incidental to or connected with any application or proceedings to which the Society is a party or at the hearing of which it is entitled to appear;
  - (f) to establish or join in establishing any body, whether incorporated or not and whether in the Island or elsewhere, for the purpose of the exercise of any of the Society's functions or powers;
  - (g) to act in combination or association with, or otherwise co-operate with, any person or body, whether incorporated or not and whether in the Island or elsewhere, for the purpose of the exercise of any of the Society's functions or powers.
- (3) Without limiting subsection (2), the Society may act in combination or association with, or otherwise co-operate with, any body, whether incorporated or not, having in relation to the legal profession, whether in the Island or elsewhere, broadly the same purposes and objects as the Society has in relation to that profession in the Island.

#### **4 Subscriptions**

- (1) The members of the Society shall pay subscriptions to the Society of such amounts, and on such days, as are fixed by the Council in accordance with bye-laws under this Part.
- (2) The amount of any such subscription shall be payable in such manner as is prescribed or authorised by bye-laws under this Part, and shall be recoverable on behalf of the Society as a debt due to it.

#### **5 President and Vice-President of the Society**

The Society shall have a President and a Vice-President who shall be elected from the membership in accordance with bye-laws under this Part.

#### **6 Council of the Society**

- (1) There shall be a Council of the Society, consisting of —
  - (a) the President and the Vice-President;
  - (b) such number of —
    - (i) ordinary members; and
    - (ii) such other classes of members (if any) as may be prescribed by bye-laws under this Part;

as are elected by the ordinary members and such other classes of members as may be prescribed by bye-laws under this Part in accordance with such bye-laws.

- (2) Every Council member referred to in subsection (1)(b) —
  - (a) shall be elected in such manner; and
  - (b) shall hold office for such period (not exceeding 5 years),as is prescribed by bye-laws under this Part.
- (3) Such a Council member shall, unless he sooner vacates office otherwise than by effluxion of time, hold office until his successor is elected.
- (4) A member of the Council shall be eligible for re-election.
- (5) The powers of the Council shall not be affected by any vacancy in its membership, or by any failure to elect, or any irregularity in the election of, any member of the Council.

#### **7 Management of Society by Council**

Subject to section 11, the Council shall have the sole management of the Society and of its income and property for the purposes and benefit of the Society, and

shall have the sole right of nominating, appointing, removing, and prescribing the duties of, such officers as it considers necessary.

## **8 Power of Council to deal with property**

The Council may sell, improve, manage, develop, exchange, dispose of, turn to account, or otherwise deal with any real or personal property vested in the Society, if authorised to do so by bye-laws under this Part or by a resolution passed at a general meeting of the Society.

## **9 Power of Council to borrow money**

The Council may borrow money required for the purposes of the Society; and, for the purposes of securing any money so borrowed, may mortgage, charge, or pledge any right, title, estate, or interest in any real or personal property vested in the Society.

## **10 General meetings**

- (1) An annual general meeting of the Society shall be held in every year and other general meetings may be held from time to time in accordance with bye-laws under this Part.
- (2) The Council shall lay before each annual general meeting of the Society the accounts of the Society for the last financial year audited in accordance with bye-laws under this Part and copies of the accounts shall be provided to all members of the Society.
- (3) At all general meetings of the Society, in the absence of the President and Vice-President, a member of the Society, to be chosen at the meeting, shall preside as chairman.
- (4) All ordinary members and such other classes of members as may be prescribed by bye-laws under this Part shall be entitled to attend, speak and vote at general meetings of the Society.
- (5) Members may vote in person or by proxy in accordance with bye-laws under this Part.

## **11 Committees and other bodies**

- (1) The Council may also from time to time appoint any standing or special committee, or any other body, with such name as the Council may determine; and any person may be appointed to any such committee or body, whether or not he is an advocate.
- (2) The Council may refer any matter to any committee or body appointed under this section for consideration or inquiry or management.

- (3) The Council may from time to time delegate to any such committee or body any of the Council's powers and functions other than the power to borrow money, the power to make bye-laws under this Part and this power of delegation.
- (4) A committee or body to which any delegation is made under this section may, without confirmation by the Council but subject to any general or special directions of the Council, exercise or perform the delegated powers or functions in like manner and with the same effect as the Council could itself have exercised or performed them.
- (5) Any delegation under this section may at any time be revoked or varied by the Council and no such delegation shall prevent the exercise of any power or function by the Council.
- (6) Until any such delegation is revoked, it shall continue in force subject to any conditions to which it is subject.

## **12 Power of Council to elect members**

- (1) The Council may from time to time elect any person to be a member of the Society in accordance with bye-laws under this Part.
- (2) Any person rejected by the Council shall have a right of appeal to the Visitor of the Society in accordance with the procedures specified in bye-laws under this Part.
- (3) On an appeal under subsection (2), the Visitor may confirm, reverse or vary a decision of the Council under subsection (1).

## **13 Bye-laws**

- (1) Subject to subsection (5), the Council may make bye-laws —
  - (a) providing for the regulation and good government of the Society and its members and its affairs; and
  - (b) which make such provision as may be necessary or desirable for the effective exercise of the Society's functions and powers.
- (2) Without prejudice to the generality of subsection (1), the Council may make bye-laws —
  - (a) prescribing the number (not being less than 3) and classes of members of the Council to be elected by the Society;
  - (b) prescribing —
    - (i) the manner of electing the President and the Vice-President, and the period (not exceeding 3 years) of their continuance in office;
    - (ii) the manner of electing the other members of the Council;

- (iii) the manner in which any member of the Council may vacate office; and
    - (iv) the manner and time in which any vacancy, however occurring, shall be filled;
  - (c) providing for the appointment of a secretary, treasurer and other officers;
  - (d) providing for and regulating the holding of meetings of the Council, and prescribing the quorum and the procedure at meetings;
  - (e) providing for the convening of general meetings of the Society, prescribing the procedure at such meetings and prescribing the classes of members (apart from ordinary members) who are entitled to attend, speak and vote at such meetings;
  - (f) providing for the manner of electing persons to be members of the Society, and for removing, suspending or expelling members;
  - (g) regulating admission and the conditions upon which members and others may be admitted into the library of the Society;
  - (h) enabling the Council to give rulings in respect of the application of any bye-laws under this Part and requiring the observance of such rulings by advocates.
- (3) The Council may also make bye-laws —
  - (a) requiring advocates in private practice to arrange such indemnity as may be prescribed in the bye-laws against liability to pay claims made against them in respect of anything done or omitted to be done by them as advocates;
  - (b) for the purpose of providing such indemnity, authorising or requiring the Council to do either or both of the following things —
    - (i) to establish and maintain such fund or funds that may be disbursed in such manner as may be provided in the bye-laws;
    - (ii) to take out and maintain insurance with authorised insurers as agents for advocates.
- (4) Without prejudice to the generality of subsection (3), any bye-laws made for the purposes of that subsection may —
  - (a) specify the terms and conditions on which indemnity is to be available, and any circumstances in which the right to it is to be excluded or modified;
  - (b) provide for the management, administration, and protection of any fund maintained by virtue of paragraph (b)(i) of that

- subsection; provide for all costs and expenses incurred in the management, administration, and protection of the fund to be met out of the fund; and require advocates in private practice to make payments to the fund;
- (c) require advocates in private practice to make payments by way of premium on any insurance policy maintained by the Council by virtue of paragraph (b)(ii) of that subsection;
  - (d) authorise the Council to determine the amount of any payments required by the bye-laws, subject to such limits or in accordance with such provisions as may be prescribed by the bye-laws;
  - (e) require advocates to supply to the Council from time to time such information and statistics as may be necessary for the purposes of that subsection;
  - (f) authorise the Council to enter into contracts of reinsurance for the purposes of any scheme under that subsection;
  - (g) specify circumstances in which, where an advocate for whom indemnity is provided has failed to comply with the bye-laws, the Council or insurers may take proceedings against him in respect of sums paid by way of indemnity in connection with a matter in relation to which he has so failed to comply;
  - (h) specify circumstances in which advocates are exempt from the bye-laws or any provision of them;
  - (i) empower the Council to take such reasonable steps as it considers necessary or desirable to ascertain whether or not the bye-laws are being complied with;
  - (j) make such incidental, procedural, or supplementary provisions as are necessary to give full effect to that subsection.
- (5) Bye-laws under this Part shall not come into operation unless —
- (a) confirmed by resolution of the members at a general meeting of the Society; and
  - (b) approved by the First Deemster.
- (6) No bye-law made under this Part in respect of any matter shall be held to be invalid on the ground that power is conferred by some other provision of this Act to make a regulation in respect of that matter; but so far as any such bye-law conflicts with any regulation so made it shall be read subject to that regulation.

## 14 Service of documents

In all cases where it may be necessary for any person to serve upon the Society any notice, summons, process, or other document, the service thereof upon the

secretary, and, in case there be no secretary, then upon the President, shall be good and sufficient service of the same.

## PART II – QUALIFICATION AS AN ADVOCATE

### 15 Advocates

- (1) The First Deemster may issue —
  - (a) an advocate's commission to a person who is qualified under section 16;
  - (b) a temporary advocate's licence to a person who is qualified under section 17,on application being made in accordance with regulations under this Part.
- (2) A commission or licence may be issued subject to such conditions or limitations as the First Deemster thinks fit.

### 16 Qualification for an advocate's commission

A person is qualified for the issue of an advocate's commission if he —

- (a) has passed, or has been credited in accordance with regulations under this Part, with passing the prescribed examinations; and
- (b) has, in accordance with prescribed conditions, either —
  - (i) been in the service of a practising advocate as a student under a contract of employment, the terms and period of which comply with regulations under this Part; or
  - (ii) been in full time practice in the Island as a legal practitioner registered under the *Legal Practitioners Registration Act 1986* for such period as may be prescribed and, for such further period as may be prescribed, has been —
    - (A) employed by an advocate; or
    - (B) engaged in legal practice under the supervision of an advocate in such circumstances as may be prescribed; and
- (c) has satisfied the First Deemster that he is a fit and proper person to practise as an advocate; and
- (d) has complied with such further conditions as may be prescribed.

## 17 Qualification for issue of temporary advocate's licence

- (1) A person is qualified for the issue of a temporary advocate's licence if he —
- (a) is —
- (i) a member of the Bar of England and Wales;
  - (ii) a member of the Scottish Bar; or
  - (iii) a member of the Bar of Northern Ireland,
- who has a right of audience in relation to all classes of proceedings in the supreme courts of the jurisdiction in which he is qualified; or
- (b) is otherwise qualified in accordance with regulations under this Part,
- and satisfies the First Deemster that he is a fit and proper person to be an advocate.
- (2) The First Deemster shall issue a temporary advocate's licence under section 15(1)(b) only to a person who is qualified under subsection (1) if he is satisfied —
- (a) that the licence is required for the purposes of specific proceedings before a court, a tribunal, or a commission or committee of inquiry in the Island; and
- (b) that —
- (i) no advocate who holds a commission issued under section 15(1)(a) is available for such proceedings; or
  - (ii) such an advocate is available but could not act without a conflict of interest occurring; or
  - (iii) the proceedings require knowledge and experience of a nature not ordinarily available in the Island; or
  - (iv) the proceedings are likely to be so lengthy that they would impose unreasonable demands on the time and resources of such an advocate; or
  - (v) such circumstances exist as are specified in regulations made under this Part.
- (3) Any person who is aggrieved by a decision of the First Deemster under subsection (2) has the right to have the decision reviewed by the Judge of Appeal in accordance with regulations under this Part.
- (4) All applications and submissions to the Judge of Appeal in the course of a review under subsection (3) shall be in writing.

- (5) On completion of a review under subsection (3), the Judge of Appeal may confirm, reverse or vary the decision of the First Deemster under subsection (2) and the application for the issue of a temporary advocate's licence shall be dealt with accordingly.

## 18 Regulations

- (1) The Deemsters may make such regulations as are necessary for the purpose of giving effect to this Part, and, without prejudice to the generality of that power, may make regulations in respect of –
- (a) the qualifications necessary to entitle a person to become a student for the purposes of section 16(b)(i);
  - (b) courses of study and the practical training and experience of candidates for qualification for the issue of an advocate's commission;
  - (c) the granting of credits or exemptions in special circumstances or in order to avoid hardship to any student or other candidate or where the candidate is, or is eligible to be, registered under the *Legal Practitioners Registration Act 1986*;
  - (d) the form of commissions and licences under this Part;
  - (e) the maintenance of a register of advocates and such other records as are specified;
  - (f) fees for examinations, the application for and issue of commissions and licences under this Part, and for the application of those fees;
  - (g) the appointment of examiners for the purposes of the examinations prescribed under this Part;
  - (h) the circumstances which are to be specified for the purposes of section 17(2)(b)(v); and
  - (i) any matters which by this Part are required or permitted to be prescribed.
- (2) Before making regulations under this section, the Deemsters shall consult the Society and such other persons as appear to the Deemsters to be representative of persons likely to be affected thereby.
- (3) The Advocates Admission Regulations 1987 made on 17 November 1987 shall have effect as if made by the Deemsters under this Part.
- (4) Subsection (3) is without prejudice to the *Interpretation Act 1976*.

## PART III – ADVOCATES’ FEES

### 19 Advocates’ fees: general principles

- (1) Subject to this Part and the *Legal Aid Act 1986*, the fees charged by an advocate for professional services shall be such as may be agreed between the client and the advocate.
- (2) An advocate shall be under a duty –
  - (a) to ensure that all clients and prospective clients are made aware of their eligibility for legal aid and legal advice and assistance under the *Legal Aid Act 1986*;
  - (b) to provide all clients with a written estimate of fees likely to be payable by the client unless –
    - (i) the client expressly waives his right to the estimate; or
    - (ii) there is a need to provide immediate advice or assistance or the circumstances otherwise make it impracticable to provide an estimate, in which case the advocate shall provide a written estimate immediately it becomes practicable;
  - (c) to provide all clients with written details of the fees payable by them.
- (3) The duty to provide a written estimate under subsection (2)(b) includes a duty to provide further estimates where for any reason the original or any previous estimate needs material revision.
- (4) In any circumstances where a client of an advocate may become liable to pay or contribute to the costs of another person, the advocate shall be under a duty to ensure that the client is made aware of that fact and the possible extent of such liability.

### 20 Litigation and conveyancing fees

- (1) Subject to this Part, the fees charged by an advocate in relation to any proceedings before any court or tribunal (including preparatory work) or any proposed proceedings shall, except where the fees fall to be paid under the *Legal Aid Act 1986* –
  - (a) subject to subsection (2), be such as may be agreed in writing between the client and the advocate in accordance with regulations under this Part; or
  - (b) in the absence of such an agreement, be no more than those prescribed by regulations under this Part.

- (2) Where by order of any court or tribunal any party to proceedings is entitled to recover from another party the whole or any part of the fees charged by his advocate, the fees which may be recovered shall, except as provided in the order and subject to the terms of that order, be not more than those allowed on assessment under this Part as being fair and reasonable.
- (3) Subject to this Part, the fees charged by an advocate in relation to conveyancing services shall be no more than those prescribed by regulations under this Part.
- (4) Subject to subsections (1) and (5), any court in which an advocate has been employed to prosecute or defend any proceedings may at any time —
  - (a) declare the advocate entitled to a charge on any property recovered or preserved through his instrumentality for such amount of his fees as the court may permit in relation to those proceedings; and
  - (b) make such orders for the assessment of those fees and for raising money to pay or for paying them out of the property recovered or preserved as the court thinks fit;and all conveyances and acts done to defeat, or operating to defeat, that charge shall, except in the case of a conveyance to a bona fide purchaser for value without notice, be void as against the advocate.
- (5) No order shall be made under subsection (4) if the right to recover the fees is barred by effluxion of time.

## 21 Advocates' fees committee and regulations

- (1) There shall be an advocates' fees committee which shall consist of —
  - (a) the First Deemster;
  - (b) one member nominated by the Isle of Man Law Society; and
  - (c) one other person who is not a practising advocate, nominated by the Council of Ministers.
- (2) Decisions of the committee must be unanimous.
- (3) It shall be the duty of the committee to make such regulations as are necessary for giving effect to this Part, and without prejudice to the generality of that power, regulations may prescribe —
  - (a) the fees to be charged by an advocate in relation to —
    - (i) any proceedings before any court or tribunal (including preparatory work), or to any proposed proceedings;
    - (ii) conveyancing services; and

- (b) the information to be included in written details of fees provided by an advocate under section 19(2)(c).
- (4) The Committee shall review the fees prescribed under this Part at least biennially.
- (5) Before making regulations under this section the Committee shall consult the Council of the Society.
- (6) Any scale of fees under the *Advocates Act 1874* relating to the matters referred to in subsection (3)(a) and which is in force immediately before this section comes into operation shall have effect as if included in regulations under this Part.
- (7) Subsection (6) is without prejudice to the *Interpretation Act 1976*.
- (8) Regulations under this section shall be laid before Tynwald.

## 22 All bills subject to assessment

- (1) The following provisions of this Part (assessment of bills for advocates fees) shall apply to every bill rendered to a client in respect of advocates' fees notwithstanding any agreement made between the client and the advocate or any regulations under this Part.
- (2) In proceedings for the assessment of bills for advocates fees, any agreement between the client and the advocate shall be taken into account for the purpose of determining whether the costs are fair and reasonable.
- (3) A reference in any other enactment (other than an enactment in this Act) to the taxation of advocates' costs shall be treated as a reference to an assessment in accordance with this Part.

## 23 Assessment of bills

- (1) A bill in respect of fees charged by an advocate may be assessed —
  - (a) in respect of fees charged in relation to proceedings in any court or tribunal, by the Chief Registrar (formerly referred to as taxation by the taxing master) in accordance with rules of court; or
  - (b) in relation to such fees and any other fees in accordance with regulations under this Part by an assessor (not being an advocate) nominated by the Society in accordance with the regulations.
- (2) If an application for assessment is made under paragraph (a) of subsection (1), no application may subsequently be made under paragraph (b) of that subsection, or vice versa.

- (3) Where a bill in respect of fees charged by an advocate has been delivered, no application for assessment of the bill under this Part may be made after the expiry of 6 months from the date on which —
- (a) notice has been given to the client of his right of assessment of the bill; or
  - (b) the bill was delivered to the client,
- whichever is the later, unless the High Court (sitting in private) or, where the bill is to be assessed under subsection (1)(b), the Society, otherwise allows.
- (4) Where an application for the assessment of a bill under this Part has been made, no action for the recovery of the amount of the bill shall be commenced or proceeded with until after the assessment has been completed and the time allowed for appeal has expired or, if an appeal is made, until the determination of the appeal.
- (5) Regulations under this Part may make provision as to —
- (a) the payment of the costs of the parties in relation to assessment under this Part;
  - (b) the circumstances in which the costs of the parties and any fees in relation to assessment shall be —
    - (i) disallowed, either in whole or in part;
    - (ii) paid by the advocate concerned or by a third party;
  - (c) the fees to be paid for an assessment under this Part;
  - (d) the payment of interest at such rate as may be prescribed in respect of fees due to an advocate in such cases and for such period as may appear to the Chief Registrar to be appropriate in the circumstances.

## 24 Appeals from Chief Registrar

- (1) If any party to an assessment under this Part is dissatisfied with any decision of the Chief Registrar under section 23(1)(a), he may within 14 days after the date of the decision, appeal to the High Court in accordance with rules of court.
- (2) On hearing an application under subsection (1), the High Court may make such order by way of confirmation, variation or reversal of the decision or part of it as the Court thinks fair and reasonable.

**25 Part III: supplemental**

- (1) This Part is without prejudice to any other statutory provision which enables any court or tribunal to award costs or fix the amount of costs in any proceedings before that court or tribunal.
- (2) In any other enactment, references (however worded) to taxation of costs or to the Taxing Master shall be construed as references to assessment under section 23(1)(a) and to the Chief Registrar respectively.

**PART IV – ADVOCATES: INCORPORATED PRACTICES****26 Incorporated practices**

- (1) The Deemsters may, after consulting the Society make rules –
  - (a) making provision as to the management and control by advocates of bodies corporate carrying on businesses consisting of the provision of professional services such as are provided by individuals practising as advocates;
  - (b) prescribing the circumstances in which such bodies may be recognised by the Council as being suitable bodies to undertake the provision of any such services;
  - (c) prescribing the conditions which (subject to any exceptions provided by the rules) must at all times be satisfied by-bodies corporate so recognised if they are to remain so recognised; and
  - (d) regulating the affairs and the conduct of the affairs of such bodies.
- (2) Rules made by the Deemsters may also make provision –
  - (a) for the manner and form in which applications for recognition under this section are to be made, and for the payment of fees to the Society in connection with such applications;
  - (b) for regulating the names that may be used by recognised bodies;
  - (c) as to the period for which any recognition granted under this section shall (subject to the provisions of this Part) remain in force;
  - (d) for the revocation of any recognition on such grounds as may be specified in the rules;
  - (e) for the keeping by the Society of a list containing the names and places of business of all bodies corporate which are for the time being recognised under this section, and for the information contained in any such list to be available for public inspection;
  - (f) for the Advocates Acts 1976 to 1993, the *Legal Practitioners Registration Act 1986*, any public document under those Acts, and any other enactment which relates to advocates or affects services

- provided by advocates, to have effect in relation to recognised bodies with such additions, omissions or other modifications as appear to the Deemsters to be necessary or expedient;
- (g) for empowering the Council to take such steps as they consider necessary or expedient to ascertain whether or not the provisions of any enactment applicable to recognised bodies (whether or not by virtue of this section) are being complied with;
  - (h) for the manner of service on recognised bodies of documents authorised or required to be served on such bodies under or by virtue of this Part.
- (3) A certificate signed by an officer of the Society and stating that any body corporate is or is not, or was or was not at any time, a recognised body shall, unless the contrary is proved, be evidence of the facts stated in the certificate; and a certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.
  - (4) Any communication made to or by a recognised body in the course of its acting as such for a client shall in any legal proceedings be privileged from disclosure in like manner as if the body had at all material times been an advocate acting for the client.
  - (5) In this section, “recognised body” means a body corporate for the time being recognised under this section.
  - (6) Any rules made by the Deemsters under this section shall not come into operation unless they are approved by Tynwald.

## **27 Penalty for pretending to be a body recognised under s 26**

- (1) A body corporate shall not describe itself or hold itself out as a body corporate for the time being recognised under section 26 unless it is so recognised.
- (2) Any body corporate which contravenes subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

## **PART V – NOTARIES**

### **28 Restriction on acting etc as a notary public**

Any person who, in the Island –

- (a) acts or holds himself out as a notary public, or uses or exercises the office of a notary, or does any notarial act; or

(b) takes or uses any name, style, title or description implying, or otherwise pretends, that he is a notary, otherwise than under and in accordance with a licence issued by the First Deemster under this Part, shall be guilty of an offence.

## 29 Licensing of notaries

- (1) The First Deemster shall not issue a licence under this Part unless he is satisfied that the applicant is an individual who —
  - (a) is a fit and proper person to act as a notary public; and
  - (b) has made application in accordance with, and has complied with such conditions as are prescribed by, regulations under this Part.
- (2) A licence under this Part —
  - (a) may be issued subject to conditions;
  - (b) may at any time be made subject to conditions;
  - (c) may at any time be suspended or revoked on reasonable grounds.
- (3) The Deemsters may make such regulations as they consider necessary or desirable to carry the provisions of this Part into operation.
- (4) Regulations under this Part shall not come into operation unless they are approved by Tynwald.
- (5) Any person who, immediately before the commencement of this Part, was authorised by the Governor to act as a notary public shall be treated as if that person had been issued with a licence under this Part, and the provisions of this Part and of regulations under this Part shall apply accordingly.

## 30 Offences under Part V

- (1) Any person who, for the purpose of obtaining a licence under this Part, knowingly or recklessly gives any information which is false in a material particular shall be guilty of an offence.
- (2) Any person guilty of an offence under this Part shall be liable on summary conviction to a fine not exceeding £5,000.<sup>1</sup>

# PART VI – GENERAL

## 31 Offences: bodies corporate

Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or

other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

### 32 Interpretation

In this Act —

“**condition**” includes limitation;

“**conveyancing services**” means the preparation of transfers, conveyances, leases, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land;

“**fees**” includes costs, charges, disbursements, expenses and remuneration;

“**the Society**” has the meaning given by section 1(1).

### 33 Amendments, repeals and transitional

- (1) The enactments specified in Schedule 1 are amended in accordance with that Schedule.
- (2) The enactments specified in Schedule 2 are repealed to the extent shown in column 3 of that Schedule.
- (3) Where, immediately before the commencement of this Act —
  - (a) a person holds an advocate’s commission issued under or in accordance with section 1 or 1A of the *Advocates Act 1826*; or
  - (b) a person holds a licence issued by the Governor under section 8 of that Act and which was issued to him after a period of service as an articulated clerk,<sup>2</sup>

such commission or, as the case may be, licence shall have effect as if it is a commission issued under section 15(1)(a) of this Act and any reference in this Act to an advocate’s commission shall be construed as including such a commission or licence.

- (4) Where, immediately before the commencement of this Act, a person holds a licence issued by the Governor under section 8 of the *Advocates Act 1826*, other than a licence to which subsection (3)(b) applies, such licence shall have effect as if it is a temporary advocate’s licence issued under section 15(1)(b) of this Act and any reference in this Act to a temporary advocate’s licence shall be construed as including such a licence.

*Ss 1, 1A and 8 of the Advocates Act 1826 have been reproduced below for the convenience of users*

## **1 No person to be commissioned to act as an advocate who has not fulfilled a clerkship of the prescribed term**

That from and after the promulgation of this Act, no person shall, except as provided by sections 1A(1)(b) and (c) and 8 of this Act, be commissioned, licensed, or permitted to act as an attorney, solicitor, or advocate, or to sue out any process, or to commence, carry on, or defend any action or actions, or any proceedings, in the name of any other person or persons, in any court of law or equity, or before any magistrate or jury within the said Isle, unless such person shall have been bound, by contract in writing, to serve as a clerk for and during the prescribed term, in the Rolls Office, or to an attorney, solicitor, and advocate legally sworn and admitted, and shall have continued in such service for and during the said term, and faithfully performed the same.<sup>3</sup>

### **1A Advocate's commission**

The Governor may issue a commission (to be known as an "advocate's commission") under his hand and seal to —

- (a) any person who has —
  - (i) complied with section 1 of this Act;
  - (ii) satisfied the Governor that he is a fit and proper person to act as an attorney, solicitor and advocate; and
  - (iii) taken the government oaths and the following oath —

"I, A.B., do swear that I will truly and honestly demean myself in the practice and knowledge of an attorney to the best of my ability.";
- (b) the Clerk of Tynwald for the time being;
- (c) the Government Advocate for the time being;
- (d) the Legal Officer (Fraud).<sup>4 5</sup>

## **8 Nor does it prevent Governor from licensing English barristers, on payment of duties and fees**

And provided also, that nothing herein contained shall hinder or prevent the Governor or Lieutenant-Governor of the said Isle for the time being, from licensing any English barrister to practise as an attorney, solicitor, and advocate in this Isle, on payment of the duties and fees hereinbefore mentioned.]

### **34 Short title, construction and commencement**

- (1) This Act may be cited as the Advocates Act 1995 and shall be construed as one with the *Advocates Act 1976*, and that Act and this Act may be cited together as the *Advocates Acts 1976 and 1995*.

- (2) This Act shall come into operation on such day as may be appointed by order made by the Governor in Council and different days may be appointed for different provisions or for different purposes.<sup>6</sup>
- (3) An order under subsection (2) may contain such transitional provisions as the Governor in Council thinks expedient.
- (4) An order under this section which exercises the power contained in subsection (3) shall not come into operation unless it is approved by Tynwald.



**SCHEDULE 1****AMENDMENT OF ENACTMENTS**

## Section 33(1)

[Sch 1 amends the following Acts —

Advocates Act 1976 q.v.

Legal Aid Act 1986 q.v.

Legal Practitioners Registration Act 1986 q.v.]

**SCHEDULE 2****REPEAL OF ENACTMENTS**

## Section 33(2)

[Sch 2 repeals the following Acts wholly —

Advocates Act 1826

Isle of Man Law Society Act 1859

Advocates Act 1874

Attorneys Act 1919

Isle of Man Law Society (Amendment) Act 1934

Advocates Act 1956

Advocates Act 1966

and the following Acts in part —

Advocates Act 1976

Statute Law Revision (Miscellaneous Provisions) Act 1979

Statute Law Revision Act 1983

Statute Law Revision Act 1989.]



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

<sup>1</sup> Subs (2) amended by Statute Law Revision Act 1997 Sch 1.

<sup>2</sup> Para (b) amended by the Law Officers Act 2014 s 5.

<sup>3</sup> S 1 amended by Advocates Act 1976 Sch 2 and by Statute Law Revision Act 1989 Sch 1.

<sup>4</sup> Para (d) added by Investment Business Act 1991 Sch 2.

<sup>5</sup> S 1A inserted by Advocates Act 1976 Sch 2.

<sup>6</sup> ADO – see SD399/96, SD573/96, SD690/96, SD366/98, SD186/99, SD371/99 and SD729/00.

ADO	Provisions	Date in operation
SD399/96	Part I (s.1 to 14); s.33(1) & (2), for the purposes of the amendments and repeals in Sch.1 & 2 as set out below – Sch.1 (amendments) , entries 2(a), 5(a) & 6; Sch.2 (repeals), entries relating to – <ul style="list-style-type: none"> <li>• Isle of Man Law Society Act 1859,</li> <li>• Isle of Man Law Society (Amendment) Act 1934,</li> <li>• Advocates Act 1976 s.29(1) - repeal of s.1(1) &amp; (2) and definition of the “Act of 1859”,</li> <li>• Statute Law Revision Act 1983,</li> <li>• Statute Law Revision Act 1989, Sch.1 para 2;</li> </ul> s.34.	01/09/1996, subject to transitional provisions (see SD399/96 Sch)

SD573/96	s.21; s.23(5); Other provisions of Part III, but only to the extent necessary for the Advocates' Fees Committee to make regulations.	01/10/1996
SD690/96	s.33(1), for the purposes of the amendments in Sch.1 entries 2(b), 3, 4, 5(b)& (c) and 12.	01/12/1996
SD366/98	s.15, 16, 17 & 18, but only for the purpose of enabling Deemsters to make regulations under and for the purposes of these sections; s.26 & 27.	18/05/1998
SD366/98	s.15, 16, 27 & 18, for all purposes; s.33(3) & (4); Sch.1 (amendment), entries 1 & 7; Sch.2 (repeals), entries relating to – Advocates Act 1826, Attorneys Act 1919, Advocates Act 1956; Advocates Act 1976, Sch.2, Statute Law Revision (Miscellaneous Provisions) Act 1979.	01/08/1999
SD186/99	s.33(1), in relation to the amendments in Sch.1 set out below – Sch.1 entries 11 & 13.	12/04/1999
SD371/99	s.33(1), in relation to the amendments in Sch.1 set out below – Sch.1 entries 8, 9 & 10.	01/08/1999
SD729/00	Remaining provisions, for all purposes.	01/01/2001