

## Converting an Isle of Man Companies Act 2006 Company to a Companies Act 1931 Company - Overview

Isle of Man companies incorporated under the Companies Act 2006 (CA 2006) can now re-register as a Companies Act 1931 (CA 1931) company.

By Paul Harvey, 8th March 2024

With the introduction of the **Companies (Amendment) Act 2021** (the Act) Isle of Man companies incorporated under the Companies Act 2006 (CA 2006) can now re-register as a Companies Act 1931 (CA 1931) company.

This all sounds great, but what does this actually mean for you and your clients? In this article we'll consider the what, how and why of the Act in respect of private limited companies. We'll cover:

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## **Re-Registration: What Happened Until Now?**

When the CA 2006 was introduced into Manx law, s148 of the Act included the power to re-register CA 1931 companies to a CA 2006 company, but not vice versa. It is difficult to know why this one-way system was created. Presumably it was thought that the more flexible and less onerous CA 2006 company would eclipse the need for CA 1931 companies.

Initially this was shown to be true, with CA 2006 companies steadily overtaking the number of new CA 1931 companies being incorporated, peaking in 2016, accounting for 62% of Limited Company incorporations.

However, the growth in incorporations of CA 2006 companies has slowed, and there is now more or less parity in the numbers of CA 1931 and CA 2006 entities: in 2020 CA 1931 @ 51% / CA 2006 @ 49%.

With time we have discovered that the CA 2006 company, whilst possessing a great deal of flexibility and presenting a streamlined trading structure, is not the clear choice. As with almost everything, corporate structuring and tax planning is not a 'one size fits all' scenario.

## **Re-Registration: Where are we now?**

The Act has now remedied the inconsistency regarding re- registration from CA 2006 to CA1931 and visa versa.

The Members can vote to re-register whilst the company has a Registered Agent appointed, requiring a special resolution ("SR") passed by members holding 75% or more of the voting rights. 28 clear days' notice must be given to the Registered Agent of the intention to re-register. A shorter notice period can be agreed with the Registered Agent.

The SR will consider the approval of the re-registration from CA 2006 to CA 1931, the submission of revised constitutional documents (Memorandum and Articles) – ensuring nothing within the Articles prohibits such action.

The re-registration process will require the submission of various documents, including the application for re-registration (Form 101), re-registration fee of £100, certified

copies of the requisite resolutions along with the revised Memorandum and Articles.

Note that the company can only re-register in line with the type previously adopted i.e. a company limited by shares can only re-register as a company limited by shares etc.

In addition, any outstanding filing fees must be settled, which includes filings due within one month of re-registration.

Once the new filings have been accepted and a certificate of de-registration is issued, the company is then beholden to the CA 1931. It's important to note that re-registration of the company does not form a new entity, nor does it affect the rights of creditors concerning any previously registered charges, which do not need to be re-registered. The Isle of Man Companies Registry have produced a useful **practice note covering the changes**. Please note, CA 2006 companies re-registering to become a CA 1931 company who have not yet registered charges will need to do so prior to beginning this process.

It is worth noting that the now CA 1931 company will require a minimum of two Directors, a Company Secretary and still needs an Isle of Man Registered Office.

#### **Other updates: Registration of Directors**

The Act also introduces the requirement for CA 2006 entities to notify the Registrar of any removals/appointments of Directors within one month of the change - bringing such filing requirements in line with CA 1931 companies. Please note that this has not yet come into force and is not currently mandatory for CA 2006 companies.

#### **Why Would a Company Voluntarily Re-Register Under Another Act**

Where a client wishes to redomicile a company, it is currently less onerous, more efficient and therefore less costly to first establish a CA 2006 company. The company now has the choice to then re-register as a CA 1931 entity if desirable; this can be attractive if the intention is eventually to physically manage the company from the Isle of Man.

At the time of incorporation, the CA 2006 company only requires one Director, does not require the appointment of a Company Secretary and of course must have a Registered Agent; this can be especially attractive for start-ups and burgeoning businesses with lower resources. In the future, when there are higher staffing levels, the company may wish to re-register as a CA 1931 company, now able to meet the minimum of two Directors and a Company Secretary; dispensing of the requirement for a Registered Agent.

### **Supporting the Re-registration of Isle of Man Companies**

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We have developed a full suite of company services for advisers and their clients, which includes supporting the planning, incorporation, directorships, administration, redomicile and of course re-registration of companies.

### **Get in touch**

If you require further information regarding the Isle of Man Foundations, their establishment or management, please feel free to get in touch with Paul Harvey at Dixcart: [advice.iom@dixcart.com](mailto:advice.iom@dixcart.com)

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