

Court Assistance in Criminal Investigations

August 10, 2000

In appropriate cases the Isle of Man Court will assist investigating authorities and/or criminal courts in other jurisdictions in making enquiries and obtaining evidence in the Isle of Man. Section 21 of the Criminal Justice Act 1991 covers all criminal cases and contains safeguards for the person questioned. However, where a serious or complex fraud is involved, Section 24 of the Criminal Justice Act 1990 is usually invoked, enabling the attorney general to undertake investigation in the Isle of Man to assist foreign authorities. The problem is that this statute removes the right of silence, while offering qualified protection against self-incrimination only locally.

In a recent case involving judicial review (by Petition of Doleance) of an investigation by the attorney general under the 1990 act, the court held that the attorney general must consider the protection of the individual being questioned in terms of the risk of self-incrimination in the jurisdiction to which the information is being forwarded. This may involve requiring the requesting authority to give details of protection afforded in the relevant jurisdiction and to give undertakings restricting the use of information received from the Isle of Man.

There are separate provisions under which the Isle of Man Court will also assist in civil cases (including insolvency), provided that this will not amount to enforcement of a foreign tax debt

For additional information please contact Kevin O’Riordan or Christopher Arrowsmith at Simcocks Advocates – telephone +44 1624 690 300, fax +44 1624 690 333 or email mail@simcocks.com

L-0003