

2013: A YEAR IN REVIEW

2013 THRONE SPEECH

A brief summary of the Parliamentary Agenda

- The One Bermuda Alliance Government has promised to continue to make revitalisation of the Bermuda economy its primary focus as it enters its second year in power
- A public-private partnership to help develop and diversify international business will be established
- The Civil Aviation and Maritime administrations will be revamped to make Bermuda's aircraft and shipping registers more competitive
- The Companies Act and Bermuda Immigration and Protection Act will be amended to clarify and streamline the acquisition of property in Bermuda

Continued on next page....



Looking retrospectively at 2013, there were several interesting developments in the legal arena. We provide this as a summary with a view to what 2014 may have in store.

Funds legislation amendments aimed at attracting new business to Bermuda

The Investment Funds Amendment Act 2013 has recently been enacted to introduce changes to Bermuda's Investment Funds Act 2006 (the "Act"), the legislation which provides the regulatory framework for the formation and management of investment funds in Bermuda. The Amendment's objective is to increase the attractiveness of Bermuda fund formation to sophisticated investors and onshore funds lawyers and fund managers. [Read more](#)

***Did you know?** You can view Bills that have been passed or tabled in the House of Assembly online at http://www.parliament.bm/2013_House_Bills.aspx*

The Spending and Government Efficiency Commission (the "SAGE Commission")

The Spending and Government Efficiency Commission (the "SAGE Commission"), an election platform item for the One Bermuda Alliance ("OBA"), was created in the first quarter of 2013 following on from Bermuda's national election last year in which the OBA emerged as the new governing party. The OBA had indicated during their election campaign that if they were successful, one of their early objectives would be to establish the SAGE Commission with a view to making the Bermuda Government more efficient, cost effective and transparent in light of the economic challenges currently being faced. [Read more](#)

Immigration Developments Impacting International and Local Businesses

There have been a number of developments in immigration laws and policies this year which have and will impact international and local businesses in Bermuda. The Incentives for Job Makers Act 2011 came into force in 2012 which introduced changes to the Economic Development Act 1968 ("the EDA Act") and the Bermuda Immigration and Protection Act 1956 ("the Immigration Act"). [Read more](#)

Bermuda Calling: Telecommunications Reform & Investment Opportunity

Telecommunications in Bermuda is undergoing root and branch reform with a view to not only making the industry more competitive but more attractive to investors. The commitment to change has been signalled by the establishment of the much-needed, long-overdue Regulatory Authority and an easing of restrictions on foreign investment. [Read more](#)

MJM Director to Chair Labour Laws Committee

The Minister of Home Affairs, The Honourable Michael Fahy announced in the Senate on 20th November, 2013 that a new committee has been established to review and modernise Bermuda's labour laws (the "Committee"). Minister Fahy has indicated that the Committee will specifically look at the roles that Bermuda's labour laws play in job creation and retention with the aim of introducing a new system designed to be more inclusive and fairer. [Read more](#)

MJM Limited awarded 2013 Best Corporate and Commercial Team, Bermuda, by Capital Finance International
[Read more](#)



MJM hosts Insuralex Global Insurance Lawyers Group in Bermuda

The first Mid-Year Meeting to be held in Bermuda of Insuralex, a worldwide network of independent insurance and reinsurance lawyers, drew a large crowd of over 120 attendees to its recent seminar, of which 37 people were from overseas (representing over 12 countries!).

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...THRONE SPEECH CONTINUED

- A “commercial immigration programme” intended to encourage “direct inward investment,” shall be introduced
- The Hotel Concessions Act was promised to be streamlined and modernized to boost tourism development by attracting “developers for new tourism resorts and products” as well as facilitating “the upgrading of existing properties”
- A Tourism Authority is to be established with the aim of improving performance throughout the industry
- A long-awaited national referendum on the introduction of gaming in Bermuda has been promised in the first three months of 2014

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Bermuda: All Ship-shape and Bristol fashion

It has been widely reported that the Prime Minister of the UK, David Cameron, will call upon the British Overseas Territories which are regarded as low tax jurisdictions to “get their houses in order” and that offshore financial centres such as Bermuda, Cayman, BVI, Jersey and Guernsey will be urged to “sign up to greater tax transparency”. Bermuda has always defended its status as a low tax jurisdiction, and has always made it clear that it is not a tax haven, nor a place where the fruits of tax evasion can be harboured. [Read more](#)

Bermuda: The Epicentre of the Catastrophe Bond World

Bermuda is now the epicentre of the catastrophe bond/insurance linked security world. With \$7 billion of these securities now listed on the Bermuda Stock Exchange, the island can claim almost half the value of the global market. Catastrophe bonds are risk linked securities that transfer a specified set of risks from an Insurance company which acts as a sponsor to investors through the issue of cat bonds and the trading in derivatives based on the bond. [Read more](#)

Insurance Watch: The Bermuda Market

Two recent announcements demonstrate that Bermuda has an important role to play in the global insurance market and is seeing growth in 2013. The Bermuda Monetary Authority (“BMA”) presented figures for the period ending July 2013 in which 47 new insurers were registered. [Read more](#)

Changes to Bermuda’s Prospectus Filing Requirements

Recent statutory amendments, introduced by the Companies Amendment Act 2013, mean that Bermuda companies listed on appointed stock exchanges are no longer required to file prospectuses in Bermuda. [Read more](#)

Family Trust Disputes in Bermuda

There has been a significant increase in contentious and non-contentious trust matters arising from family disputes in relation to Bermuda trusts. Most often these involve wealthy international dynastic families or family corporations. The type of matters we see before the Bermuda Courts include... [Read more](#)

Bermuda Government Scraps Work Permit Term Limit Policy

Bermuda’s One Bermuda Alliance Government scrapped the “Measures to Inhibit Long-Term Residency” policy, more commonly known as the term limit policy, and undertook a review of the Islands’ work permit policy, all with a view to encouraging economic growth and job opportunities for Bermudians. The initial announcement came on 30 January 2013 from Home Affairs Minister Michael Fahy who called the term limit policy a “barrier to job creation”. [Read more](#)

Property fees reduced for non-Bermudians — a great time to buy!

A non-Bermudian can only buy a property in Bermuda if they have acquired a licence to do so. This involves applying to the Minister of National Security and paying an application fee which is approximately \$1,500 and is refunded if the licence is granted. Once the licence is granted the licensee may purchase a property in Bermuda subject to certain restrictions. [Read more](#)

Corporate Social Responsibility: MJM and the 2013 Catlin End-to-End Event

At MJM we take great pride in giving back to the community. MJM attorneys and staff believe in social responsibility and we invest our time, skills and talents into community causes. We are particularly proud to support and participate in Bermuda’s annual ‘End-to-End’ event, Bermuda’s premier... [Read more](#)

MJM’s Peter Martin is ranked a Leading Lawyer in the IFLR1000 for 2014



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MJM BARRISTERS & ATTORNEYS

IS ORGANIZED AROUND FOUR
CORE PRACTICE AREAS:

**CORPORATE
LITIGATION | PROPERTY
PRIVATE CLIENT**

Each practice area is led by a Director who is recognized as a leading practitioner in his respective field of specialization.

MJM continued to be the designated Bermuda law firm within **Globalaw** and was further appointed to **Insuralex Global Insurance Lawyer's Group** this year. Insuralex is a world-wide network of independent insurance and re-insurance lawyers...[Read More](#)

Chambers Global has recognized the following MJM Lawyers as "Leaders in their Field" for 2014:

***Alan Dunch for Dispute Resolution**

***Andrew Martin for Dispute Resolution**

***Peter Martin for Corporate & Finance**

2013 CASES OF NOTE

Privy Council Watch

Bermuda is Britain's oldest overseas territory and the Privy Council in London is the final Court of Appeal from Decisions of the Court of Appeal in Bermuda. Further, the Supreme Court and Appeal Court of Bermuda are bound by decisions of the Privy Council in cases from all jurisdictions where the Privy Council is the final appellate court. It therefore pays to keep a close watch on Privy Council judgments. [Read more](#)

Privy Council -- Mutual Holdings (Bermuda) Limited and others (Appellants) v Diane Hendricks and others (Respondents)

The Privy Council gave judgment this year on an appeal from the decision of the Court of Appeal of Bermuda in Mutual Holdings (Bermuda) Limited and others [2013] UKPC 13. The major issue concerned an allegation of fraud made against three corporate and four personal defendants (who included ex employees of the Mutual Group) in respect of the rent a captive facility operated by the Mutual Reinsurance Management Group. [Read more](#)

Privy Council -- Selassie (Appellant) v The Queen (Respondent)

On 8 October 2013, the Board handed down a judgment which will invariably affect all sentences which relate to murder in Bermuda: Selassie (Appellant) and Pearman (Appellant) v The Queen (Respondent) [2013] UK PC 29. The background of this case is that Selassie and Pearman (the "Appellants") had committed 'pre-meditated' murder in May 2008 and murder in 2009 respectively. [Read more](#)

The Bermuda Ombudsman v Corporation of Hamilton et al

The recent Supreme Court decision of The Bermuda Ombudsman v Corporation of Hamilton et al [2013] SC (Bda) 72 Civ. which was handed down on 7 October 2013, sheds light on the authority that is vested in the office of the Ombudsman and the weight that a summons issued by the Ombudsman has. [Read more](#)

Director of Land Valuation v Samuel Andrew Banks

This civil case has been ongoing for several years concerning the owners ("the Banks") and their property named "Gatewood" in Paget. The Banks disputed the annual rental value ("ARV") which was allocated to their newly built home by the Land Valuation department. [Read more](#)

Fifth Street Finance v D Dobbin

In this case, Fifth Street Finance v D Dobbin [2013] SC (Bda) 55 Com, Alan Dunch and Tim Frith of MJM acted on behalf of Fifth Street Finance Corporation in the recovery of \$4,000,000 as money due under a Guarantee and Indemnity Agreement dated September 28th, 2009. [Read more](#)

Kentucky Fried Chicken v Minister of Economy et al

In March 2013, the Chief Justice issued a decision in the case of Kentucky Fried Chicken (Bermuda) Ltd v Minister of Economy Trade & Industry and the Bermuda Industrial Union [2013] Bda LR 19. Kentucky Fried Chicken (Bermuda) Ltd. ("KFC") sought judicial review of the Minister of Economy Trade & Industry's (the "Minister") decision ... [Read more](#)

Moyes & Co (UK) Ltd v Northern Gulf Petroleum

This 2012 Supreme Court decision clarifies the Bermuda Court's approach when considering an application to have a claim struck out. [Read More](#)

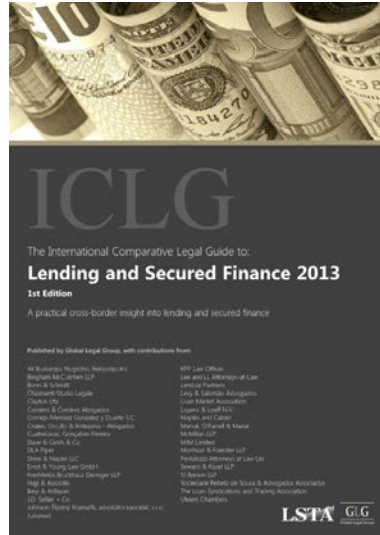
MJM Litigation Attorney Kimberley D. Caines recognized as a "Rising Star"
<http://www.thebermudian.com/features/1143>

This note has been prepared for informational purposes only, and is not legal advice. Please contact us if you require advice on matters covered in the above summary.

2013 MJM CONTRIBUTIONS TO PUBLICATIONS



International Comparative Legal Guides (ICLG) Alternative Investment Funds 2013
Bermuda Chapter
 Published: 15/05/2013
 ISBN: 978-1-908070-63-0



International Comparative Legal Guides (ICLG) Lending and Secured Finance 2013
Bermuda Chapter
 Published: 03/04/2013
 ISBN: 978-1-908070-57-9



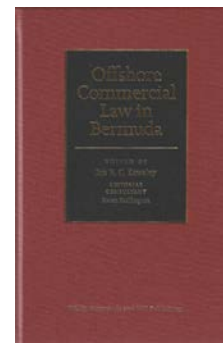
Getting the Deal Through Mergers & Acquisitions 2013
Bermuda Chapter
 Published: 21/05/2013
 ISSN: 1471-1230



Getting the Deal Through Securities Finance 2013
Bermuda Chapter
 Published: 04/2013
 ISSN: 1744-0939



Getting the Deal Through Telecoms and Media 2013
Bermuda Chapter
 Published: 03/2013
 ISSN: 1471-0447



Offshore Commercial Law in Bermuda
 Ian R. C. Kawaley and Karen Skiffington
 "Creditors under Bermuda Law" – Andrew Martin, MJM
 "Rights under Bermuda Company Law" – Peter Martin, MJM
 Published: 01/2013

Also:
 PLC Multijurisdictional Guide [2013]
 Lending and taking security in Bermuda: overview (online)



PLC Multijurisdictional Guide [2013]
 Private client law in Bermuda: overview (online)

Coming soon: PLC Multijurisdictional Guide Bermuda Dispute Resolution Guide and ICLG Guide to Private Client 2014 Edition

If you are interested in receiving a complimentary copy of one of the above publications, please contact Agathe Holowatinc at aholowatinc@mjm.bm (Limited supply only and excludes *Offshore Commercial Law in Bermuda*).