

The Legal System of Mount Vema

The Mount Vema Legal System

The legal system of the Kingdom of Mount Vema - The Vema Seamount Territory is based on the [Vema Seamount Declaration of Sovereignty](#), the [Constitution of Mount Vema](#), and Common Law and it does not accept compulsory International Court of Justice (ICJ) jurisdiction.

THE LAW OF VEMA SEAMOUNT - MOUNT VEMA

The Law of Mount Vema, is a set of rules that plays an important part in the maintenance of the Kingdom of Mount Vema - Vema Seamount social order, to be made by the decisions of the Judges.

Law and Morality

Morality in Mount Vema Law is the set of values and beliefs that governs the behavior of the Vema Seamount Community and defines right and wrong.

Mount Vema - Vema Seamount Types of Laws

The Laws of the Kingdom of Mount Vema - Vema Seamount, are classified as International or Domestic.

International Law

International Law – is divided into:

Public International Laws, which governs relationships between the Kingdom of Mount Vema and other nations including international trade.

-And-

Private International Law, which governs which nation's law, should apply to individuals where there are links with other nations, such as inheritance on a person's death or marriage.

Domestic Law - includes:

Police law, human rights law, evidence law, security law, immigration law, welfare law, employment law, sports law, IT and commerce, international trade, succession, trust & equity, medical law, environmental law, media or intellectual law.

It is divided into:

Community Law, which includes Constitutional Law, Administrative Law and Criminal Law;

-And-

Private Law, which includes contract, tort, family, company law and land law.

Distinctions between Civil Law and Criminal Law

CIVIL LAW

Purpose: Enforcement of rights, dispute settlement and regulation of relationship between individuals.

Courts: Mount Vema High Court and Mount Vema Vema House of Living Standards

Burden of Proof: Balance of probability

Outcomes of Cases: Liability decision - civil remedy award such as damages, injunction and declaration.

Terminology: Claimant/defendant – Making a claim (suing defendant) and finding liability.

CRIMINAL LAW

Purpose: Prevention of certain types of conduct, enforcement of behavior and punishment of offenders.

Courts: Mount Vema Royal Court and Mount Vema Royal Tribunal

Burden of Proof: Beyond reasonable doubt

Outcomes of Cases: Guilt or innocent decision – sentence imposed such as imprisonment (which may involve unpaid work in a police controlled compound), community order and fine.

Terminology: Prosecution/defendant – Charging defendant and finding of guilt.

JUDICIAL PRECEDENTS

Precedents

Precedents in the Legal System of Mount Vema requires that in certain circumstances a decision on a legal point made in an earlier case is followed and all courts are bound to follow decisions made by courts above them. And appellate courts are bound by their own past decisions.

Original Precedents

Where there is no previous decision on a point of law that has to be decided by a court, then the decision made in that case on that point of law will be the original precedent. When faced with original precedent, the court will reason by analogy. Cases that are nearest to it in principle will be considered or the judges in the case will declare what the law has always been.

Binding and Persuasive Precedent

A past decision is bound only if:

The legal point involved is the same as the legal point in the case being decided.

The fact of the case being decided is sufficiently similar to the previous case.

The earlier decision was made by a court above the present court or by the court level which is bound by its own past judgement.

Law Reporting

In order to operate the Mount Vema system of precedents effectively all past cases are properly recorded and are available on an official subscription site on the Mount Vema Intranet or at the Judiciary Files.

Hierarchy of the Mount Vema Courts

Where a point of international law is involved, the decisions of the Royal Mount Vema House of Law is bound on all courts in the Kingdom of Mount Vema.

The Mount Vema Royal House of Appeals

The Mount Vema Royal House of Appeals is the highest Court of the Kingdom of Mount Vema and its decisions are followed by all other courts of the Kingdom. It regards its own past decisions as binding and departs from them when it appears right to do so.

The Mount Vema Royal Court of Justice

The Mount Vema Royal Court of Justice follows decisions of the Mount Vema Royal House of Appeals and its own past decisions. However it has the flexibility to depart from a decision where the liberty of a person is involved or a judge considers that the material facts of the present case are sufficient from an earlier case. He/she may distinguish the case and refuse to follow the earlier decision.

The Mount Vema Royal Tribunal

The Mount Vema Royal Tribunal follows the Mount Vema Royal Court of Justice and its own past decisions.

The Mount Vema High Court

The Mount Vema High Court follows its own past decisions with the flexibility to depart from a past decision where the liberty of a person is involved or a judge considers that the material facts of the present case is sufficient from an earlier case. He/she will distinguish the case and will refuse to follow the earlier decision.

The Mount Vema House of Living Standards

The Mount Vema House of Living Standards, follow the Mount Vema High Court and its own past decisions.

The Mount Vema House of Complaints

The Mount Vema House of Complaints is not a court as such, so it does not create precedents and follows decisions of all the above courts.

LEGISLATION

Acts of Veman Congress

The Congress of Mount Vema ensures that all Acts of Veman Congress passed delegated legislation and statutory instruments are as clear as possible, and when legislative provisions are not clear, the Judges reserve the right to interpret it in order to apply.

Veman Congress Process and Consultation

The Laws of Mount Vema come from a variety of sources:

It may come from the Veman Sovereign - The Vema Seamount Authority, The Veman Congress and the Vema Seamount Administration.

- The Veman Congress sets out its legislative programme for the congressional session in the Prime Minister's State of the Nation Address, which is the Annual Speech for the following year agenda and budget as approved by the Veman Congress and signed by the Veman Sovereign, on the first of August.
- The Vema Seamount Administration is responsible for proposing new legislation to the Veman Congress for better management of the Kingdom.
- Members of the Administration (Cabinet Officials) have the duty to review areas of the law in connection with their respective Departments, research and consult before drawing up proposals for new laws or law reform.

The Drafting Process a Bill

Like in many English speaking countries, In Mount Vema, a draft act is called a Bill. When a Bill is introduced by the Vema Seamount Administration, it is drafted by its relevant departments and approved by the Prime Minister as the ok to be presented to the Veman Congress, with detailed instructions given by the Minister in charge of the Ministerial Department responsible for the legislation.

The Process in Veman Congress

Each Bill goes through a number of stages before it becomes an Act. If the Bill is voted against at the First Presentation, Second Presentation or Third Presentation in either Council then it is not

presented to the Sovereign for approval.

Types of Bill

There are two types of Bill:

1- Royal Bill: When introduced by the Veman Sovereign through the relevant Royal Departments.
Note: a royal bill is only presented when it originates from the council of Royal Advisors at the Mount Vema House of Lords, and is never to be confused with a Royal Order which is an executive order (sovereign's order) that does not require congressional approval.

2- Government Bill: When proposed by the Vema Seamount Administration through its relevant Departments.

Passing a Bill

A Bill may be started in either the Council of Royal Advisors (The Mount Vema House of Lords) or the Council of Cabinet Ministers (The House of Representatives), but it must go through the same procedure in each Council and it must pass all stages of the legislative process in order to become law.

1- First Presentation: The formality at which the title of the Bill is read.

2- Second Presentation: The main debate on the principles of the Bill.

3- Clause Stage: The Consideration of each clause of the Bill.

4- Report stage: The report on the amendments proposed on the Bill.

5- Third Presentation: The final vote on the Bill. If rejected there should be further debate about the Bill upon request of at least five members of the Veman Congress.

6- The Royal Approval: When a Bill is approved by the Veman Congress it is then sent to the Veman Sovereign for signature of approval (The Royal Seal Approval).

The Sovereign can either sign the Bill or return to the Congress with Royal Objections. When a Bill is returned with Royal Objections it may be re-presented to the Monarch one to five years after, except 'Money Bills' which may be re-presented one month after.

When a Bill is approved it becomes an Act of Veman Congress.

Veman Congress Acts - Coming into Force

The Act of Congress shall come into force on the commencement date given in the Act. Or if there is an 'appointed day' section, on the date set by the appropriate Government Department; or if there is no indication in the Act, then it shall become law at midnight following the Royal Mount Vema Approval.

Treaties

All Treaties signed are directly applicable, and are given legal effect without further enactment.

LAW REFORM

The Mount Vema House of Law or a Government Department may refer to the Congress to develop and reform the law; to simplify and modernise the law; to codify the law; to eliminate anomalies; or to repeal obsolete and unnecessary enactments.

CIVIL JUSTICE SYSTEM

The Civil Court

The Mount Vema High Court hears all civil cases in the Kingdom of Mount Vema and has four divisions.

- a) - First Division: For all small claims involving amounts smaller than 15, 000 golles.
- b) - Second Division: For all contracts and torts claims including Commercial, Technology, Construction and Admiralty.
- c) - Third Division: For dispute involving matters such as mortgages, trusts, copyright and patents; winding up of companies and corporate disputes.
- d)- Family Division: For family-related disputes, wardship cases and cases relating to children.

The Civil Procedure

The Mount Vema Civil Procedure Rules are set out as follows:

- 1- The Mount Vema House of Complaints issues Claim Forms to the Claimant.
- 2- The Claimant must state the truth as to the facts in the particulars of the Claim.
- 3- The Mount Vema House of Complaints serves a copy of the Claim Form and the particulars of the claim to the Defendant, by post, fax, e-mail or other electronic means.
- 4- The Defendant has 8 days in which to respond, by paying the claim, admit or partly admit it, or file a defence.
- 5- A defence that simply denies the claim is not be sufficient unless specified.
- 6- Before or after the commencement of proceedings, the defendant or the claimant may make an offer to settle and payment.

Allocation of Cases

When a defence is filed at the House of Complaints, the House files an allocation questionnaire which is sent to all parties to determine the High Court division in which the claim would be heard. An allocation fee must be paid at this stage. If a party is dissatisfied with the allocation decision, an application can be made to the court for the claim to be re-allocated.

Proceedings

- 1- All cases are heard by High Court Judges.
- 2- The use of lawyers is not required.
- 3- The number of expert witnesses is controlled by the court, and the court permission is not required for any party to use an expert to give evidence either oral or written.
- 4- All time limits are strictly enforced and an approximate date for trial is given to all parties.

Appeals

Appeals are heard by Senior High Court Judges. They are only made where a Senior High Court Judge considers that the special appeal would raise an important point of principle or practice; or there is some other compelling reason for the High Court to hear.

The Approach to Appeals

Permission to appeal is required and is granted by either the High Court or the House of Law.

Permission is granted only where the House of Law or the High Court considers that an appeal would have a real prospect of success. Or there is some other compelling reason why the appeal should be heard; or when a decision of the judge was wrong or where it was unjust because of a serious of procedural or other irregularities.

Permission to appeal is not required where the liberty of the individual is in issue.

Alternative Resolution

When the lawyers of the parties involved agree to resolve the dispute privately.

Mediation/Conciliation

Mediation is the process in which the House of Complaints (the mediator) helps the parties reach a compromise solution to their dispute without offering a solution.

Conciliation is the process in which the House of Complaints (the conciliator) suggests grounds for compromise and the basis for settlement before the House of Complaints issues the Claim Form to the Claimant.

TRIBUNALS AND INQUIRIES

A system of tribunals operates within the House of Living Standards and they are subject to the law of natural justice and judicial review of their proceeding.

Types of Tribunal

There is diversity in the jurisdiction of each tribunal. Such as Domestic Disputes, Social Security and Welfare Rights, Criminal Injuries Compensation, Immigration, Liberty of the Individual, Mental Health, Work Related Incidents, Wages, Unfair Dismissal, Redundancy and Discrimination.

Composition and Procedure

Tribunals have a panel of four qualified chairmen with knowledge of the field in which the tribunal operate. The Panel of Chairmen is appointed by the Veman Lord Justice from a list of suitable applicants. Witnesses are required to give evidence on oath and the tribunal are required to give reasons for their decision.

The House of Living Standards

The House of Living Standards is administered by a qualified judge. The judge receives and investigates complaints about tribunals and issue annual report.

Control by the Courts

When any party to a tribunal hearing believes that the rules of natural justice have been breached, they have the right to apply to the Lord Justice for the case to be reviewed.

POLICE POWERS

Police Forcers

- 1- The Mount Vema Royal Police: Receives orders from the Royal Mount Vema Department Justice.
- 2- The Mount Vema Police or Vema Seamount Police: Receives orders from the Ministry of Justice.
- 3- The District Police: Receives orders from their District Administrations and District Attorney.

Powers to Stop and Search

The police in Mount Vema have the power to stop and search vessels, people and vehicles in public places; and it includes places in which people have paid for entry. It also includes gardens or yards of a private property where the police have reasonable grounds for believing that the person does not reside there and has not got the permission of the resident to be there.

In order to stop a person or a vehicle the police officer must be in uniform or if not he has to produce documentary evidence that he is a police officer, and he has reasonable suspicion. Reasonable suspicion should never be supported on the bases of personal factors alone such as age, colour, hairstyle, and manner of dress or a known previous conviction.

In all cases, before commencing the search the police officer must activate his police voice recorder, and state his name and number to the suspect specifying the object of the proposed search and the grounds for proposing the search. When this procedure is not followed the search is considered unlawful.

Searching Premises

The police can enter and search any premises with the occupier's consent.

A Search Warrant must be issued by the House of Complaints or a judge in case of serious crime, to allow the police to search the premises named in the Warrant. Such a warrant only authorizes one entry within one month from the date it is issued with reasonable grounds for believing that:

- 1- A serious arrestable offence has been committed.
- 2- There is material in the premises which is likely to be of substantial value to the investigation of the offence.
- 3- The material is likely to be relevant evidence.
- 4- It is not practical to communicate with any person entitled to grant entry to the premises or the material.
- 5- Entry to premise will not be granted unless a warrant is granted.
- 6- The purpose of the search may be frustrated or seriously prejudiced unless a police officer arriving at the premises can gain immediate entry.

The police must identify themselves to the occupier of any premises searched and they must show the search warrant and hand a copy to the occupier before any search commences.

NOTE

The Royal Police is the only police force of the Kingdom of Mount Vema that does not require warrant to enter and search premises. A reasonable suspicion that a person or establishment poses a threat to His Mount Vema Majesty's realm is sufficient.

Other Powers to Enter Premises

The police will enter without a search warrant to arrest a person on a warrant or for an arrestable offence, or to recapture an escaped prisoner. If a person is arrested, the police can enter and search premises in which he was at the time of arrest or immediately before the arrest.

Arresting Powers

Any person (police or private citizen) may be arrested and the powers to arrest operate only where there is or may be an arrestable offence such as:

- 1- Offences for which the sentence is fixed by law.
- 2- Offences for which the maximum sentence is at least one year imprisonment.
- 3- Offence specially made arrestable for breach of the peace.
- 4- When a person is in the act of committing an arrestable offence.
- 5- When there are reasonable grounds for suspecting that a person is committing an arrestable offence.
- 6- When the suspect's name and address cannot be discovered.
- 7- When there are reasonable grounds for believing that the name and address given are false.
- 8- When there are reasonable grounds for believing that arrest is necessary to allow the prompt and effective investigation of the offence or of the conduct of the person; to prevent any prosecution for the offence from being hindered by the disappearance of the person in question. To prevent a person from causing physical injury to himself or any other person; suffering physical injury; causing loss or damage to property; committing an offence against public decency; causing an unlawful obstruction of the highway; or if there are reasonable grounds for believing that arrest is necessary to protect a child or other vulnerable person from the person who is arrested.
- 9- When a person granted police bail has failed to attend the police station on the set date.

Procedure on Arrest

- 1- It must be made clear to the person that they are being arrested and what the arrest is for.
- 2- Where necessary reasonable force may be used to affect the arrest.
- 3- If the arrest is made by warrant, the warrant must be shown on demand as soon as is reasonable practicable.
- 4- The police may search the arrest person for anything which might be used to make an escape or for evidence relating to the offence.
- 5- If the search takes place in public, the police can only require the suspect to remove outer coat, jacket and gloves.
- 6- If the arrest is not made at a police station, the suspect must be taken to a designated police station as soon as practicable.
- 7- There may be a delay when the presence of the suspect is necessary in order to carry out immediate investigation.
- 8- If there is a delay in taking a suspect to a police station the reason for the delay must be recorded on arrival at the police station.

Detention at the Police Station

Time limits and the custody officer's role:

- 1- The normal maximum time for detention in Mount Vema is 36 hours but this can be extended to 48 hours for all offences if it is authorized by an officer of the rank of captain or above.
- 2- For serious arrest offences applications must be made to the House of Complaints to extend the period up to a maximum of 96 hours.
- 3- At the beginning of the period of detention the custody officer must inform the suspect of their rights to: have someone informed of the arrest; legal advice in private and that the advice must be provided free of charge; speak on the telephone for a reasonable time to one person. And these rights must be given to the suspect in a written notice.
- 4- In the case of a serious arrestable offence, where it is believed that it will hinder investigations the right to have someone informed and the right to legal advice can be delayed for up to 48 hours.
- 5- Where a suspect is under 17 years old, a parent or guardian must be notified of the detention.
- 6- The custody officer must be responsible for reviewing the detention and deciding whether the person should be detained. This must be done at the outset of the detention, then after five hours, then every eight hours.
- 7- A record of all events such as visits to the cell by police officers and interviews by the custody officers must be made.

The Right to legal Advice

The custody officer must point out the right to legal advice and if the person declines to speak to a solicitor the custody officer must record the reason for the refusal. However the right to legal advice can be delayed for a maximum of 48 hours in the case of serious arrestable offence.

Interviews

- 1- At the interview a suspect must be cautioned: 'You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you say may be given in evidence.'
- 2- All interviews must be recorded.
- 3- Suspects are entitled to have a lawyer present during the interview, except where the right to legal advice has been delayed in case of serious arrestable offence.
- 4- Suspect under 17 or those who are mentally disordered or handicapped must have an appropriate adult present during the interview, even if they appear to understand the questions.

5- There should be a short break at least every two hours, breaks for meal times, and the suspect must be allowed an eight-hour period of rest.

6- If a confession is obtained by oppression or in circumstances likely to render it unreliable, that evidence must be excluded by the trial judge.

Searches, Samples and Fingerprinting

1- When detained at a police station, a non-intimate search may be made if the custody officer believes this necessary. The search must be carried out by a person of the same sex as the suspect.

2- If a strip search involving the removal of more than outer clothing is considered necessary, then the search must: Take place where the suspect cannot be seen by any person who does not need to be present and it must be conducted with proper regard to the sensitivity of the person and to minimize embarrassment.

3- An intimate search consists of the physical examination of a person's body orifices, other than the mouth.

4- An intimate search must be authorized by a captain or a person above in rank who believes that there is hidden: An article which could cause harm or a Class A drug.

5- The actual search must only be carried out by a doctor or nurse, although, where it is for an article which may cause harm and a captain or above in rank considers it is not practicable to wait for a doctor or nurse, then a police officer may carry out the search.

6- Where the offence being investigated is a recordable offence, the police may take fingerprints and non-intimate samples; include hair (except pubic hair) and saliva.

7- The consent of the person must be obtained before fingerprints or non-intimate samples are taken. If consent is refused fingerprints and non-intimate samples can be taken without consent where the person is detained or charged with a recordable offence. Reasonable force must be used if necessary.

8- Intimate samples such as blood, semen or any other tissue fluid, urine, pubic hair, dental impression or swab taken from a body orifice other than the mouth must only be taken by a doctor or nurse. Consent must be needed.

9- Any fingerprint or samples taken must not be destroyed even if the person is not found guilty or not even charged with any offence.

Complaints against the Police

Any person who believes that the police have exceeded their powers or a complaint against a senior police officer may make a complaint to the House of Commons, House of Lords, or the Royal Police Department of Internal Affairs.

Court actions against the Police

When there is an allegation that a police officer has committed a crime, e.g. assault, criminal proceedings, may be taken against that police officer. These proceedings may be commenced by the Prosecution Service, where there is a breach of civil rights; the individual affected may take civil proceedings and claim damages (compensation). For example, where the police have entered premises without a search warrant a claim for trespass to land may be made, or where there has been an unlawful arrest or unreasonable force a claim for trespass to the person may be made.

THE CRIMINAL PROCESS AND COURTS

The Prosecution Service (MVPS)

1- MVPS, The Mount Vema Prosecution Service is the Kingdom of Mount Vema's, independent public prosecutions services, which also acts in the name of the Crown of Mount Vema.

2- Once a defendant has been charged by the police, the case file must be handed over to the MVPS to review.

3- The MVPS may decide to discontinue a case if there is insufficient evidence or if it is not in the public interest to prosecute.

4- The Code for Prosecutors are set out by some common public interest factors considered, such as:

- a)- A weapon was used;
- b)- The defendant was in position of authority or trust;
- c)- The offence was premeditated;
- d)- The offence was carried out by a group;
- e)- The defendant has relevant previous conviction.

5- Factors against prosecution include:

- a)- The offence was committed as a result of a genuine mistake;
- b)- The loss or harm is minor and arose from a single incident;
- c)- The defendant is elderly or suffering from significant mental or physical.

6- In the Royal Tribunal the MVPS, is represented by a Prosecutor.

7- In the Royal Court the MVPS, is represented by a Prosecutor.

Bail

Every individual in the Kingdom of Mount Vema have a right to liberty (in accordance to Human Rights Convention), but this right is balanced against protection of the public, and is considered when granting bail, which may be given by the police or by a court before which the defendant appears.

Bail will not be granted where the defendant should be kept in custody due to the nature and seriousness of the offence: Such as the defendant's character, antecedents, associations, community ties, record of fulfilling his obligations under previous grants of bail and the strength of the evidence

against the defendant or for his own protection.

Bail will also be denied where defendant is arrested for child abuse, murder, attempted murder, manslaughter, rape or attempted rape, where the defendant has already served a custodial sentence for such an offence, or where there are substantial grounds for believing that the accused would, if granted bail:

- a)- Fail to surrender to custody;
- b)- Commit an offence while on bail;
- c)- Interfere with witnesses or otherwise obstruct the course of justice;

Classification of Offences

The trial court is determined by the category of the offence being tried. There are three categories of the offence:

- 1- Summary Offences: Is the least serious and can only be tried at the Royal Tribunal.
- 2- Triable either way: Is the middle range of offences and can be tried in either at the Royal Tribunal or at the Royal Court of Justice.
- 3- Indictable: Is the most serious offences and can only be tried at the Royal Court of Justice.

The Royal Tribunal

Jurisdiction of the Royal Tribunal

- 1- The Royal Tribunal must try all Summary offences and any offence triable either way where the defendant agrees to being tried in the Royal Tribunal.
- 2- The maximum sentences in the Royal Tribunal are 24 months for two offences and fines up to 25,000 gollies.
- 3- Conducts plea before venue hearings in respect of all triable either way offences. A defendant who pleads guilty is then dealt with in the Royal Tribunal.
- 4- Where defendant pleads not guilty to a triable either way offence, a mode of trial hearing will then be held to decide whether the case should be tried in the Royal Tribunal or the Royal Court of Justice.
- 5- Deals with the first hearing of all indictable offences; these cases are then sent to the Royal Court of Justice.
- 6- Decides whether to grant arrest warrants or search warrants, and whether the defendant should be granted bail.

7- The Royal Tribunal also have civil jurisdiction. This shall include:

- a)- Hearing appeals against a local authority's refusal to grant licenses.
- b)- Enforcing demands for district management and maintenance fees.
- c)- Hearing family cases;

The Youth Court

1- Young offenders age 10 to 17 inclusive must be tried in the Youth Court. The exception is when young offenders are charged with very serious offences including murder, manslaughter, rape, or causing death by dangerous driving, must be tried at the Royal Court. In addition, other offences (carrying a sentence of 10 years' imprisonment or more for an adult) may be tried in the Royal Court of Justice.

2- There must be three Royal Tribunal Judges on the bench, with a mix of gender, and the Judges must have special training.

3- A parent or guardian must be present where the offender is under 16, unless it would be unreasonable to require such attendance in the circumstances.

Appeals from the Royal Tribunal

There is one appeal route to the Royal Court of Justice.

The route is only available to the defendant. The appeal must be on sentence or conviction or both. The whole case must be reheard at the Royal Court by one Royal Tribunal Judge and two Royal Court Judges.

The Royal Court

1- Once a case has been transferred from the Royal Tribunal, a plea and directions hearing are held to establish whether the plea is guilty or not guilty and to identify key issues for the trial.

2- If the defendant pleads guilty, the judge decides the sentence.

3- If the defendant pleads not guilty, the trial is held before a judge and a jury of 12. The judge decides the law and the jury decides the facts. The jury decides whether the defendant is guilty or not guilty. This can be by a unanimous verdict or by a majority verdict (2 to 10).

Appeals from the Royal Court

The defendant may appeal against conviction and/ or sentence to the Royal House of Appeals. In all cases the defendant needs leave to appeal from the House of Appeals or the trial judge must grant a certificate that the case is fit for appeal.

1- The only ground for allowing an appeal against conviction is that the conviction is unsafe.

2- If the House of Appeals allows the defendant's appeal, it may order a retrial or it may quash the Conviction.

3- When hearing an appeal, the House of Appeals have power to admit fresh evidence if it is necessary or expedient in the interests of justice.

Appeals by the Prosecution

The prosecution may apply to the higher Court to order a re-trial or to quash an acquittal. Because of interference with a witness, the jury, the judge has made an error of law or there is new and compelling evidence that the defendant is guilty and it is in the interests of justice to hold a re-trial.

Appeals to the House of Law

1- Both the prosecution and the defence have the right to appeal from the House of Appeals to the House of Law.

2- In any case the House of Appeals certifies that the case involves a point of law of general public importance, and either the House of appeals or the House of Law must give leave to appeal.

3- There must be no appeal to the House of Law on sentences.

Miscarriages of Justice

All miscarriages of justice shall be referred and reviewed by a Court higher than the one where the case was tried.

SENTENCING

Types of Sentences

1- Murder carries a mandatory sentence of life imprisonment for offenders aged 18 and over.

2- For other offences a prison sentence up to the maximum for the particular offence will be imposed on offenders aged 18 and over. Offenders under 18 who are convicted of serious offences will be detained for a set period up to the maximum for the offence.

3- A Life sentence or imprisonment for public protection, which is indeterminate period, will be given to an offender who commits a serious violent or sexual offence.

4- An offender who commits a less serious violent or sexual offence would be given an extended sentence. The period of extension would be served on licence in the community. This period is up to fifteen years for a violent offence and up to twenty years for sexual offence.

5- A term of imprisonment for less than 24 months is known as 'Safe Custody'. This is when the offender will serve part of the time in prison and then the remainder on licence with requirements attached.

6- When a defendant spends weekends or other periods in prison but is free and able to live at home for the rest of the weekend is known as 'Mid Custody'.

7- Offenders aged 18-20 may serve their sentence in a prison or Young Offenders institution.

8- Offenders aged 12-17 are sentenced to a detention and training order for a specified time of between 4 and 24 months. For those under 15 years old such an order is only made if the offender is a persistent offender.

Minimum Sentences

1- Offenders convicted of a third offence of class A drug trafficking are sentenced to a minimum of twelve years imprisonment.

2- Offenders convicted of a third offence of burglary are sentenced to a minimum of eight years' imprisonment.

Community Orders

1- The court imposes on defendants aged 16 or over, as part of a community order, any one more of the following requirements:

- a)- As unpaid work requirement;
- b)- An activity requirement;
- c)- programme requirement;
- d)- A prohibited activity requirement;
- e)- A curfew requirement;
- f)- An exclusion requirement
- g)- A residence requirement;
- h)- A mental health treatment requirement;
- i)- A drug rehabilitation requirement;
- j)- An alcohol treatment requirement;
- k)- A supervision requirement; and
- l)- In the case where the offender is aged under 25, an attendance center requirement.

2- The court only imposes a mental health treatment requirement, a drug rehabilitation requirement or an alcohol treatment where the defendant expresses his willingness to comply with the requirement.

Other Powers of the Court

1- A fine is imposed for any offence. There is no limit to the amount which the Royal Court can fine an offender. The maximum fine in the Royal Tribunal is 25,000 golles, except for health and safety offences where it is 5,000 golles.

2- The limits on the amount young offenders can be fined shall be: 10-13 year olds maximum 500 golles and 14-17 year olds maximum 2,000 golles.

3- A conditional discharge may be given for a period of up to three years on the condition that during this time the offender does not re-offend.

4- An absolute discharge may be given. This has no conditions attached; the matter is at an end.

5- Disqualification from driving is ordered for driving offences and also for non-driving offences, e.g. theft.

Additional Powers In respect of Young Offenders (10-17)

1- A supervision order is made placing the offender under the supervision of a local authority or probation officer or a member of a youth offending team for up to three years.

2- An action plan order is a three-month intensive programme under which the offender may be required to do a number of things, e.g. participate in set activities, make reparation or stay away from certain places.

3- A reparation order for a maximum of 24 hours' work must be made. The reparation may be direct to the victim if the victim agrees, or to the community at large.

4- A reprimand or a warning may be given. These will not be sentences imposed by a court. They will be methods by which the police may deal with a young offender without taking the case out.

5- Referral to a youth offender team is ordered where an offender who has no previous convictions has pleaded guilty to an offence in court. Referral is also obligatory after a warning.

6- An offender's parent or guardian may be bound over for a period of up to three years to take proper care and exercise proper control of the offender.

7- A parenting order requiring parents to attend counselling or guidance sessions are made when an offender under the age of 18 is convicted of an offence. The order is also available in civil proceedings where the court makes a child safety order or an anti-social behaviour order.

Mentally ill Offenders

1- In addition to the normal range of penalties there are special powers available to the court to deal with an offender who is mentally ill.

2- The main powers are:

- a)- To add a requirement to a community order that the offender attends for treatment; or
- b)- To make a hospital order to enable to offender to receive appropriate treatment as an in-patient; or
- c)- Where the offender is a danger to the community, to make a restriction order sending the offender to secure hospital.

Other Factors in Sentencing

Factors Surrounding the Offence

1- The level of seriousness of the offence within its type is important, e.g. the amount stolen, the seriousness of injuries inflicted or the type of weapon used.

2- Other factors that are aggravating an offence include:

- a)- Premeditation;
- b)- A vulnerable victim;
- c)- An abuse of trust;
- d)- Being the ring leader;
- e)- Racial or religious hostility;
- f)- Hostility based on sexual orientation or disability.

3- Where the offender has pleaded not guilty, these facts are part of the evidence.

4- Where the offender has pleaded guilty, the facts of the case will be outlined to the court by the prosecution. If the defendant does not agree with prosecution version, then there will be a hearing to establish the facts.

The Offender's Background

1- Previous convictions of the offender or any failure to respond to previous sentences may be taken into account in considering the seriousness of the offence.

2- Pre-sentence reports on the offender and his background are made available for the court.

3- The stage court proceeding at which the defendant pleads guilty to the offence will be considered.

4- When the defendant pleads guilty at the first reasonable opportunity there should be a reduction of up to one third, whereas a plea of guilty after the trial has started would only be given a one tenth reduction.

Anti-Social Behaviour and Decency Orders

1- These orders are civil orders, not criminal penalties.

2- They will be imposed when a person has behaved in an anti-social or anti-decency manner.

3- The type of behaviour will include under the term 'anti-social' and 'anti-decency' will vary wide, e.g. harassment or being frequently drunk or high on drugs, and causing a nuisance in public or to neighbours.

4- A person will be ordered not go to certain areas or take part in certain types of activities.

5- Breaking social and decency orders is a criminal matter and the offender will be sentenced for the breach.

THE LEGAL PROFESSION

Solicitors and Training

1- A Mount Vema solicitor must have a law degree which covers the six subjects of:

- Contract law;
- Law of torts;
- Land law;
- Criminal law;
- Equity and trusts;
- Constitutional and administrative law;
- International law and the law of the sea (optional).

2- The next stage is the one year Legal Practice Course, which includes training in skills such as client interviewing, negotiation and advocacy.

3- After passing this the student must then obtain a training contract. This can be with a Mount Vema firm of solicitors, or in an organization such as the Mount Vema Prosecution Service (MVPS), or the legal department of a district authority. The training contract must be for a period of two years to give the training solicitor practical experience.

4- A 26-day Professional Skills Course must be completed during the training period.

5- After completing all the above the trainee is admitted as a solicitor by the House of Law.

Role

1- Those who qualify as solicitors may work in private practice in a solicitor's firm.

2- Initially a solicitor may work as an assistant solicitor in a firm, but may eventually become a partner or set up on their own as sole practitioner after registering with the Law Society of Mount Vema.

3- There is no maximum on the number of partners in a firm of solicitors. The size of firms varies from the sole practitioner to partnerships with over 100 partners and several hundred assistant solicitors.

4- The work of a solicitor varies according to the type of firm.

Advocacy Rights

1- Solicitors in private practice may also act as advocates. They have full advocacy rights in the Royal Tribunal and the House of Living Standards.

2- The Courts and Legal Services advocacy certificate may apply for rights in higher courts.

3- Solicitors employed by the Mount Vema Prosecution Service may act as a prosecutor-advocate in any court for which they hold an advocacy qualification.

4- Solicitors employed by the Legal Services may act as an advocate to represent members of the public in any court for which they hold an advocacy qualification.

5- Other employed solicitors only have rights of audience to represent their employer.

Barristers and Training

1- A Mount Vema barrister has a law degree.

2- The barrister must take the Bar Vocational Course, which must place emphasis on practical skills of drafting pleadings and advocacy.

3- Before a barrister can appear in court he must do a 12-month period of pupillage 'work-shadowing' a barrister.

Role

1- Barristers at the bar must be self-employed. However the House of Law will pay their expenses of office rent, secretarial staff, etc.

2- They must be independent and must be briefed by any solicitor. In addition, in civil cases, they can be approached directly by the public.

3- Barristers have rights of audience in all courts. Their other work involves giving advice and opinions on points of law or potential cases and drafting papers for court.

4- Employed barristers may work for the Mount Vema Prosecution Services, Government Departments, local authorities or business and shall retain their rights of audience with limitation on who they may represent.

Legal Executives / Para-Legals

1- To become a member of the Mount Vema Institute of the Legal Executives it is necessary to be over 25 years of age, to have the Institute examinations and to have worked in a solicitor's firm or other comparable employment such as the Mount Vema Prosecution Services for at least five years.

2- Legal executives may work in solicitors' firms and deal with the more straightforward cases.

3- They have limited rights of audience in civil courts to make unopposed applications.

License Conveyancers

They must specialize in the conveyancing of property. And complaints about license conveyancers are dealt with by the 'House of Law'.

Regulation of the Legal Professions

- 1- The Law Society of Mount Vema is the governing body of solicitors.
- 2- It is a regulatory body that sets rules and discipline solicitors.
- 3- It also acts as the representative of the interests of solicitors.

The Barristers Association

- 1- The Barristers Association of Mount Vema is the governing body of barristers.
- 2- As with the Law Society of Mount Vema, it has both regulatory right and representative functions.
- 3- Complaints by clients about barristers may be investigated by the House of Law, who has the power to order a compensation payment for poor service.
- 4- The House of Law hears serious complaints and has the power to disbar a barrister.

The House of Law

- 1- The Veman Lord Justice is the head of the Mount Vema House of Law.
- 2- The House of Law oversee solicitors, barristers and licensed conveyancers.
- 3- The House of Law investigates whether complaints have been properly handled by the regulatory bodies.
- 4- The House of Law has the power to order payment of compensation by an individual lawyer or firm.

Suing a Lawyer

- 1- There must be a contract between a solicitor and a client. If there is a breach of contract, the client has the right to sue the solicitor. There should not be a contract between a client and their barrister.
- 2- It is possible for a client to sue both solicitors and barristers for negligence.

THE JUDICIARY

There are Lower and Higher Court Judges in the Mount Vema Judiciary.

Appointment

- 1- The professional qualifications needed to become a judge are set out by the House of Law. They are based on advocacy rights at the appropriate level of court.

2- The Veman Lord Justice selects and recommends judges to the Veman Sovereign - The Vema Seamount Authority for appointment.

3- Judicial posts are advertised and candidates can apply. However higher courts vacancies can be advertised but the Veman Lord Justice reserves the right to invite individuals to become higher court judges.

Lower Court Judges

1- Lower Court Judges sit in the, House of Living Standards, High Court and Royal Tribunal.

They:

- They have a general qualification (i.e. be a barrister or a solicitor) for at list seven years;
- They are first appointed as Deputy Judge for renewable period of five years;
- They are appointed by the Veman Sovereign on the recommendation of the Lord Justice.

Higher Court Judges

1- Higher Court Judges sit in the Royal Court and the House of Appeals.

- They have at least ten-year Lower Court experience.
- They are appointed by the Veman Sovereign on the recommendation of the Lord Justice.
- They first sit as Deputy Higher Court Judge before being appointed.

Removal

Persistent failure to comply with sitting requirements, failure to comply with training requirements, or sustained failure to observe the standard reasonably expected would be grounds for removal from office.

1- Higher Court Judges are not removed at the whim of Government Officials. However they are removed by the Veman Sovereign following a petition presented by the House of Law, the Vema Seamount Administration or the Veman Congress.

2- The Lord Justice may, however, declare vacant the office of any judge who, through ill-health, is incapable of carrying out his work and of taking the decision to resign.

3- Judges are dismissed by the Veman Lord Justice for incapacity or misbehaviour.

4- A Judge nominated by the Veman Lord Royal may carry out an investigation. However the outcome of any investigation must concur with any decision taken by the Veman Lord Justice to remove a judge.

Independence of the Judiciary

1- In order to safeguard the rights of the People, the Legislature, Executive, Judiciary, Defense, Finance and Media are kept separated.

2- In the Kingdom of Mount Vema, the Legislature is the Veman Congress and is based at the Veman

Congress Building. The Executive is the Vema Seamount Administration and is based at the Capital House and its associated Ministerial establishments. The Judiciary are the Judges and are based at the House of Law and its associated Judiciary establishments. The Defense is the Military and is based at the BraveHouse and military establishments. The Media is the Associated Press of Mount Vema, which is based at the Presshouse and the Finance, which is based at the General Reserve Building and its associated establishments.

3- The Heads of the Executive, Judiciary, Military, Finance and Media, are also members of the Royal Council.

4- The Veman Congress oversees all five arms of the Kingdom of Mount Vema.

The Judiciary

The Veman Lord Justice is appointed by the Veman Sovereign and holds the office for a renewable period of four years.

Protection of the Judicial Independence

1- Judges are immune from being sued for anything they do in the course of their judicial duties.

2- Individual judges must not be criticized during congressional debates.

3- Judicial salaries are paid from the Judiciary Fund.

Bias

No man should be a judge in his own cause. A judge who is involved, whether personally or as a director of a company, in promoting the same causes as one of the parties to the action, must be automatically disqualified from hearing the case.

The Lord Royal

1- The Veman Lord Royal or Veman Lady Royal is appointed by the Veman Sovereign and hold their office for a renewable period of three years.

2- The Veman Lord Royal oversees the day to day activities of all six arms of His Mount Vema Majesty's Real.

He/She shall be:

- The Speaker of the Veman Congress when sitting in its legislative capacity;
- Head of the Council of Lords and the Office of the Land Registry;

LAY PEOPLE IN THE LEGAL SYSTEM

Qualifications for Lay Justice

1- On appointment a Lay Justice must be between 21 and 60 years of age.

2- They must live in or near the justice area to which they are appointed.

3- Those with a criminal conviction, undischarged bankrupts, and members of the forces, police officers and traffic wardens are not eligible.

4- Candidates will have the following qualities:

- Good character;
- Understanding and communication;
- Social awareness;
- Maturity and sound temperament;
- Sound judgement;
- Commitment and reliability

5- Those appointed must be prepared to sit at least 30 times to 40 times per year.

Appointment

1- Lay Justices are appointed by the Prime Minister - The Vema Seamount Administrator on behalf of the Veman Sovereign.

2- The Prime Minister of Mount Vema relies on recommendations made to him/her by the Veman Lord Justice, from the lists of candidates put forward to the House of Law by the local district legal establishments.

3- The House of Law interviews candidates and recommends suitable people to the Prime Minister.

4- In putting forward names the House of Law consider the composition of the local Bench in terms of gender, ethnic origin, occupation and political views, in order to establish and keep a good balance.

5- Employers must give employees time off to sit as lay person.

Composition of the Bench

1- They must be 'middle-class, middle-aged and middle-minded' lay justices.

2- Women must make up half of all lay justices.

3- Ethnic minorities must be represented.

Training

1- Appointed lay justices must have to achieve three basic competencies. These are:

- Self Management- focusing on some of the basic aspects of self management in relation to preparing for court, conduct in court and ongoing learning;

- Team Work- focusing on team aspect of decision-making in the Court;
- Judicial Decision Making- focusing on impartial and structured decision-making.

2- Each new lay justice must keep a Personal Development Log of their progress and must have a mentor (an experienced lay justice) to assist them.

3- During the first two years of the lay justice sitting in court, between eight and eleven of the sessions must be mentored. In the same period the lay officers are expected to attend about seven training sessions.

4- Appraisals are held to check whether a lay justice has acquired the competencies.

5- This scheme involves practical training 'on the job'.

Retirement and Removal

1- Lay justices do not sit on the Bench to hear cases after the age of 65, but are placed on the supplemental list.

2- The Prime Minister has the power to remove a lay justice for the following reasons:

- Incapacity or misbehavior;
- A persistent failure to meet such standards of competence as prescribed by a direction given by the Prime Minister; or
- Where the Prime Minister is satisfied that the lay justice is declining or neglecting to take a proper part in the exercise of his functions as a justice of the peace.

Role

1- Two or three lay justices sit together to form a Bench. They have wide powers over criminal cases and have jurisdiction to:

- Try all summary offences;
- Sentence those who are guilty;
- Deal with mode of trial hearings for all triable either way offences, and try those which it is decided should be dealt with in the Royal Tribunal;
- Deal with the first hearing of all indictable offences and then transfer those cases to the Royal Tribunal.
- Hear application for bail;
- Issue arrest and search warrants.

2- Specially trained lay justices sit in the Youth Court.

3- Lay justices also have jurisdiction to deal with the following civil matters:

- Licensing appeals;
- Enforcing demands for District and Land management fees;
- Family cases.

4- Each Bench is assisted by a Justice Clerk, who guides the lay justices on questions of law practice and procedure.

5- Lay justice is only paid for expenses and any relevant training required.

Juries and Use of Juries

1- Juries are to be used in criminal cases in the Royal Court of Justice where the defendant pleads not guilty.

2- There is limited use of juries in civil cases in the House of Living Standards and in High Court. The only civil cases in which there is a right to jury trial shall be defamation, false imprisonment, malicious prosecution and fraud.

3- Juries are used in Royal Courts to inquire into deaths occurring in prison, police custody, industrial accidents or circumstances where health and safety of the public is concerned.

Jury Qualifications

1- To serve on a jury a person must:

- Be age between 18 and 70;
- Be a permanent resident of the Kingdom of Mount Vema;
- Be living in land for at least five years.

2- In addition, people are disqualified from jury service if they:

- Have been sentenced to life imprisonment or custodial sentence of five years or more;
- Have served any other custodial sentence or received a suspended prison sentence within the last ten years;
- Have been subject to a community order within the last ten years;
- Are currently on bail.

3- Some categories of people are ineligible to serve on a jury. These including the Judiciary and others who have been concerned in the administration of justice within the last ten years.

4- Some people have the right to be excluded from the right to be excluded from jury service. These included:

- Those over the age of 65;
- Members of Veman Congress;
- Members of the medical profession
- Members of the security forces

5- Mental disordered person are exempt from advice.

6- Once summonsed for jury service it is possible to apply for discretionary excusal. This will only be granted if there is a good reason, such as being too ill to attend. Jury service can also be deferred where the date given is inconvenient, e.g. because of examinations or business commitments.

Selection of a Jury Panel

1- Names are selected at random from permanent residents for the area in which the court is situated. The selection done by computer at the House of Law.

2- Those names chosen may be vetted for criminal convictions via the police computer data of criminal records.

3- In exception cases, a juror's background and political affiliation may be vetted. This should only occur in cases involving national security or terrorism. The Lord Justice must give permission for vetting.

4- At court both prosecution and defendant can challenge individual jurors.

5- There may also be a challenge to the array, i.e. the whole jury panel, on the basis that it was chosen in an unrepresentative and biased way.

6- However, the fact that a jury does not contain any ethnic minority jurors must not be a ground for challenge.

7- The prosecution may stand by individual jurors without giving a reason, but this right is used sparingly.

8- The judge may discharge any juror whom he thinks lacks the capacity to act effective as a juror.

The Role of the Jury in Criminal Cases

1- The jury decides the facts and the judge decides the law.

2- The jury decides the verdict of guilty or not guilty. If the defendant is found guilty, the judge decides the sentence.

3- The judge must not place pressure on the jury.

4- The jury verdict are unanimous or, after at least two hours' deliberation, by a majority of 2 to 10.

5- Where the verdict is by majority, the foreman of the jury must state in court the number agreeing and the number disagreeing with the verdict and the reasons, unless the number agreeing with the verdict is within the allowed majority.

LEGAL SERVICES AND FUNDING

Public Funding For Civil and Criminal Cases

- 1- The person must show that their case should be funded by the House of Law.
- 2- The person must qualify financially. To decide this, their disposable income and disposable capital shall be calculated.
- 3- Disposable income is the amount of income available to a person after taking into account essential living expenses.
- 4- Disposable capital is the assets owned by the person. It includes the equitable value of their home.
- 5- If disposal income and capital are below the minimum limits, the person receives free funding if their disposable income and capital are above the maximum allowed, then they do not qualify for help. If their disposable income and capital are between the minimum figures they must have to pay a contribution towards the cost of the funding.

Advice and Assistance

- 1- There will be a duty solicitor for people who are arrested and held in custody at a police station. This service is free.
- 2- When someone is arrested the custody officer at the police station must tell them about the duty solicitor.
- 3- There is also a duty solicitor at the Royal Tribunal for people to receive free advice on their cases. The solicitor may also represent them on matters such as bail applications.

Representation

- 1- The House of Law have the power to decide when a defendant should have a legal representative paid for by the Kingdom of Mount Vema.
- 2- This is done by deciding if it is in the interest of justice for the defendant to be represented in court. Five categories are considered. These are whether:
 - The individual would, if any matter arising in the proceedings is decided against him, be likely to lose his liberty or livelihood or suffer serious damage to his reputation;
 - The determination of any matter arising in the proceedings may involve consideration of a substantial point of law;
 - The individual may be unable to understand the proceedings or to state his own case;
 - The proceedings may involve the tracing, interviewing or expert cross-examination of witness on behalf of the individual;

- It is the interests of another person that the individual is represented.

At the end of a criminal case the defendant's financial position is considered to see how much. If anything, he should pay towards the cost of providing him with a lawyer.