



Jersey

**ADVOCATES AND SOLICITORS
(QUALIFYING EXAMINATION)
RULES 1997**

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Jersey

ADVOCATES AND SOLICITORS (QUALIFYING EXAMINATION) RULES 1997

Arrangement

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Jersey

ADVOCATES AND SOLICITORS (QUALIFYING EXAMINATION) RULES 1997

THE SUPERIOR NUMBER OF THE ROYAL COURT in pursuance of Article 13 of the Royal Court (Jersey) Law 1948¹ and Articles 4, 5, 6 and 11 of the Advocates and Solicitors (Jersey) Law 1997,² has made the following Rules –

Commencement [[see endnotes](#)]

1 Educational requirement for an applicant to sit the qualifying examination

- (1) A person applying to sit the qualifying examination must have a legal qualification or the general qualification.
- (2) For the purposes of these Rules, a person has a legal qualification if the person has –
 - (a) a law degree of a British University or of such other university or institution as the Board approves which conforms to the requirements in Rule 2;
 - (b) passed the examinations and assessments included in any course validated by the Common Professional Examination Board in England and Wales;
 - (c) passed the examinations and assessments included in any course validated by the Law Society of England and Wales for admission as a solicitor of the Supreme Court of England and Wales or the examinations formerly set by the Law Society of England and Wales for that purpose; or
 - (d) passed the examinations and assessments included in any course validated by the Bar Council for call to the Bar of England and Wales by any one of the Inns of Court in England or the examinations formerly set by the Council of Legal Education for that purpose.

- (3) For the purposes of these Rules, a person has the general qualification if the person has a degree other than a law degree within paragraph (2)(a).

2 Subjects to be included in law degree

- (1) Subject to paragraph (2), for the purposes of Article 4(2)(a)(i) of the Advocates and Solicitors (Jersey) Law 1997³ (hereafter called the “principal Law”) and Rule 1, a law degree must include the following subjects –
- (a) the law of contract;
 - (b) the law of tort;
 - (c) criminal law;
 - (d) equity and the law of trusts;
 - (e) constitutional and administrative law; and
 - (f) the law of the European Union.
- (2) Where, in the opinion of the Board, a law degree awarded to a person requires a course of legal study of a sufficiently comprehensive nature, the Board may, at its discretion, treat the degree as satisfying the requirement in paragraph (1) even though the subjects included in the degree do not wholly correspond with the subjects specified in that paragraph.

3 The qualifying examination

- (1) For a candidate who has a legal qualification, the qualifying examination shall consist of –
- (a) 5 papers on the following subjects –
 - (i) the Jersey legal system (including the history of Jersey law, its sources, customary law, the writers on Jersey law and the relevance of Norman customary law and English common law), constitutional law and administrative law,
 - (ii) the law of contract and the law relating to security on movable property and bankruptcy,
 - (iii) testate and intestate succession,
 - (iv) law of immovable property and conveyancing, and
 - (v) civil procedure and criminal procedure; and
 - (b) subject to paragraph (3), one paper on a subject chosen by the candidate from the following options –
 - (i) private international law and company law,
 - (ii) trust law (and *fidéicomis*) and tax law, and
 - (iii) family law.
- (2) For a candidate who does not have a legal qualification but who has the general qualification, the qualifying examination shall consist of –

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- (a) a Preliminary Examination consisting of 6 papers on the following subjects –
 - (i) the English law of contract,
 - (ii) the law of tort,
 - (iii) principles of English criminal law and the law of evidence,
 - (iv) principles of English constitutional and administrative law,
 - (v) principles of English equity and the law of trusts, and
 - (vi) the law of the European Union; and
 - (b) a Final Examination, which shall be the examination described in paragraph (1).
- (3) A candidate shall be exempt from the paper on one of the optional subjects described in paragraph (1)(b) if the candidate –
- (a) has obtained from the University of Caen –
 - (i) a Certificat d’Etudes Juridiques Françaises et Normandes, or
 - (ii) a Certificat d’Etudes de Droit Français et Normand; or
 - (b) has passed the examination specified in Rule 2A(2) of the 1989 Rules.⁴
- (4) The syllabus for each of the subjects described in paragraphs (1) and (2) shall be such as is issued from time to time by the Bailiff after consultation with the Board.
- (5) Each qualifying examination or, where the examination consists of a Preliminary Examination and a Final Examination, each Preliminary Examination and each Final Examination, shall be held over 6 week days, and not more than one paper shall be held on any day.
- (6) Each paper shall be of 3 hours duration.
- (7) The President of the Board shall –
- (a) assign a number to each person sitting the qualifying examination; and
 - (b) when notifying such a person of the date, time and place of the qualifying examination, inform the person of the number assigned to the person.
- (8) A paper written by a person sitting the qualifying examination shall be identified only by the number assigned to the person.

4 Application to sit the qualifying examination

- (1) Every person applying to sit the qualifying examination shall produce evidence that the person fulfils the requirements described in Article 5(1)(a) and (b) of the principal Law.
- (2) A person applying to sit the qualifying examination described in Rule 3(1) shall –

- (a) produce evidence that the person has a legal qualification or passed the Preliminary Examination described in Rule 3(2)(a); and
 - (b) indicate which of the subjects described in Rule 3(1)(b) the person wishes to be examined in, or produce evidence that the person has obtained one of the *Certificats* referred to in Rule 3(3).
- (3) A person applying to sit the Preliminary Examination described in Rule 3(2)(a) shall produce evidence that the person has the general qualification.

5 Conditional passes

- (1) Where the panel is of the opinion that a person who has failed to pass one of the papers comprising the qualifying examination has attained a sufficiently high standard generally, the person shall be –
 - (a) permitted to be re-examined in that paper only; and
 - (b) treated as having passed the qualifying examination conditionally upon the person passing that paper.
- (2) Where a person re-examined in a paper in accordance with paragraph (1) fails again to pass that paper, the panel may, at its discretion, permit the person to be re-examined in that paper only on a further occasion or occasions.
- (3) An application to be re-examined in a paper shall be made in the same manner as an application to sit the qualifying examination.
- (4) In this Rule, the “panel” means, in relation to a particular qualifying examination or any paper of such an examination, the panel of examiners appointed for that examination pursuant to Article 9(3) of the principal Law.

6 Co-opting of non-voting members to the Board etc.

- (1) The Board may co-opt so many non-voting members as are experienced in the setting and marking of examinations in law (whether or not they are advocates or solicitors) as it thinks fit.
- (2) The Board may appoint one or more such non-voting members as adviser to a panel of examiners appointed pursuant to Article 9(3) of the principal Law on the setting and marking of the qualifying examination it is conducting.

7 Repeals etc.

Subject to the transitional arrangement and savings in the Schedule, the following Rules are repealed –

Solicitors (Qualifying Examination) (Jersey) Rules 1973;

Solicitors (Qualifying Examination) (Amendment) (Jersey) Rules 1976;

Solicitors (Qualifying Examination) (Amendment No. 2) (Jersey) Rules 1980;

Advocates (Examinations) (Jersey) Rules 1989;

Advocates (Examinations) (Amendment) (Jersey) Rules 1993;

Solicitors (Qualifying Examination) (Re-examination) (Jersey) Rules 1994.

8 Citation

These Rules may be cited as the Advocates and Solicitors (Qualifying Examination) Rules 1997.

SCHEDULE

(Rule 7)

TRANSITIONAL ARRANGEMENT AND SAVINGS**1 Interpretation**

In this Schedule –

“advocates’ examination” means the qualifying examination specified in the 1989 Rules;

“commencement date” means the 1st day of January 1999;

“new Preliminary Examination” means the examination described in Rule 3(2)(a);

“old Final Examination” means Part Two of the qualifying examination specified in the 1973 Rules;

“old Preliminary Examination” means Part One of the qualifying examination specified in the 1973 Rules;

“1973 Rules” means the Solicitors (Qualifying Examination) (Jersey) Rules 1973;⁵

“1989 Rules” means the Advocates (Examinations) (Jersey) Rules 1989⁶; and

“1994 Rules” means the Solicitors (Qualifying Examination) (Re-examination) (Jersey) Rules 1994.⁷

2 Transitional arrangements

- (1) A person having the qualification described in Rule 2(1) of the 1973 Rules who applies to sit the new Preliminary Examination within the period of 2 years following the commencement date shall be deemed to have the general qualification and, on applying to sit that examination, shall be deemed to have complied with Rule 4(3) if the person produces evidence that the person has the first mentioned qualification.
- (2) A person who has passed the old Preliminary Examination shall be deemed to have the general qualification and to have passed the new Preliminary Examination and, on applying to sit the qualifying examination described in Rule 3(1), shall be deemed to have complied with Rule 4(2)(a) if the person produces evidence that the person has passed the old Preliminary Examination.
- (3) For the purposes of paragraphs 2(1)(a)(ii) and 3 of Schedule 3 to the principal Law, a person who passes the old Preliminary Examination and the qualifying examination described in Rule 3(1) shall be deemed to have passed the qualifying examination specified in the 1973 Rules.

3 Saving for the 1989 Rules

- (1) Where a person who, before the commencement date, has sat but not passed the advocates' examination so elects, on application to the President of the Board, the 1989 Rules shall continue to have effect in relation to the person for the purposes of the person's further examination in April 1999.
- (2) Where, before the commencement date or, in the case of a person who makes the election described in paragraph (1), following the person's examination in April 1999, a person is treated, in accordance with Rule 2 of the 1989 Rules, as having conditionally passed the advocates' examination, the 1989 Rules shall continue to have effect in relation to the person, for the purpose only of the person's re-examination in the paper the person has failed.

4 Saving for the 1973 Rules and the 1994 Rules

- (1) Where a person who, before the commencement date, has sat but not passed the old Preliminary Examination or the old Final Examination so elects, on application to the President of the Board, the 1973 Rules and the 1994 Rules shall continue to have effect in relation to the person for the purposes of the person's further examination in April 1999.
- (2) Where, before the commencement date or, in the case of a person who makes the election described in paragraph (1), following the person's examination in April 1999, a person is treated in accordance with Rule 5 of the 1973 Rules as having conditionally passed the old Preliminary Examination or the old Final Examination, the 1973 Rules and the 1994 Rules shall continue to have effect in relation to the person, for the purpose only of the person's re-examination in the paper the person has failed.

ENDNOTES**Table of Legislation History**

Legislation	Year and No	Commencement
Advocates and Solicitors (Qualifying Examination) (Jersey) Rules 1997	R&O.9142	1 January 1999 (Rules 3(7) and (8), 4(1) and 6 in force 8 October 1997)
Advocates and Solicitors (Qualifying Examination) (Amendment) (Jersey) Rules 1998	R&O.9192	1 January 1999

Table of Endnote References

¹	<i>chapter 07.770</i>
²	<i>chapter 07.070</i>
³	<i>chapter 07.070</i>
⁴ Rule 3(3)	<i>substituted by R&O.9192; Rule 2A was inserted in the original by R&O 8639</i>
⁵	<i>R&O.5788</i>
⁶	<i>R&O.8014</i>
⁷	<i>R&O.8712</i>