



Jersey

# **ADVOCATES AND SOLICITORS (JERSEY) LAW 1997**

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## ADVOCATES AND SOLICITORS (JERSEY) LAW 1997

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Jersey

## ADVOCATES AND SOLICITORS (JERSEY) LAW 1997

**A LAW** to revise and consolidate the Laws relating to the right to practise as an advocate or a solicitor and the regulation of the practice of solicitors, and to provide for ancillary matters

Commencement [[see endnotes](#)]

### **1 Interpretation**

(1) In this Law –

“Board” means the board of examiners described in Article 9 and “President of the Board” shall be construed in accordance with paragraph (2) of that provision;

“qualifying examination” shall be construed in accordance with Article 6 and paragraphs 4(2) and 5(2) of Schedule 3;

“relevant office” means an advocate’s or a solicitor’s office in Jersey, the Law Officers’ Department or the Judicial Greffe;

“Royal Court” means the Superior Number of the Royal Court;

“specified” means specified in Rules of Court.

(2) For the purposes of this Law, a person is a qualifying citizen if the person is a Commonwealth citizen or a citizen of the European Union, and a qualifying national if the person is a national of an EFTA State which is a party to the European Economic Area Agreement.

(3) In this Law –

- (a) a reference to 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 includes the examinations formerly set by the Council of Legal Education for that purpose;

- (b) a reference to 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 includes the examinations formerly set by the Law Society of England and Wales for that purpose.<sup>1</sup>

## **2 Entitlement to practise as an advocate or solicitor**

- (1) A person shall be entitled to practise as an advocate before every court in Jersey if the person has been admitted to the Bar in accordance with Article 8.
- (2) A person shall be entitled to practise as a solicitor if the person has been admitted as a solicitor in accordance with Article 8.

## **3 Requirements for admission to the Bar**

- (1) A person shall be entitled to be admitted to the Bar if –
  - (a) the person is a qualifying citizen or a qualifying national; and
  - (b) the person fulfils the requirements in paragraph (2) or (3).
- (2) The requirements are that –
  - (a) the person has passed –
    - (i) either 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 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 such other examinations and assessments as may be specified, and
    - (ii) the qualifying examination; and
  - (b) the person has been employed, for the period of 2 years immediately preceding the person's application for admission to the Bar in accordance with Article 8, in a relevant office or in more than one such office.<sup>2</sup>
- (3) The requirements are –
  - (a) that the person is admitted as a solicitor; and
  - (b) either –
    - (i) that when so admitted he or she had passed either 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 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 such other examinations and assessments as may be specified, or

- (ii) that the person has practised as a solicitor for a period of 3 years.<sup>3</sup>
- (4) For the purpose of paragraph (2)(b) employment in an advocate's or solicitor's office outside Jersey or in more than one such office during the period of 2 years mentioned in that paragraph shall be taken to be employment in a relevant office during that period if –
  - (a) the total period of employment in the office or offices outside Jersey did not exceed 6 months; and
  - (b) the advocate or solicitor in whose office the person was employed or, if the person was employed in more than one such office, each of them, certifies that during the period of the person's employment in that office the person was engaged predominantly in matters of Jersey law.<sup>4</sup>
- (5) A break in the period of employment of 2 years mentioned in paragraph (2)(b) or a break of employment immediately following that period of employment shall be disregarded if –
  - (a) the break did not exceed 6 months; and
  - (b) the Attorney General is satisfied that there was an adequate reason for the break,but any such break or breaks shall not count as part of the period of employment.<sup>5</sup>

#### **4 Requirements for admission as a solicitor**

- (1) A person shall be entitled to be admitted as a solicitor if –
  - (a) the person is a qualifying citizen or a qualifying national; and
  - (b) the person fulfils the requirements in paragraph (2) or (3).
- (2) The requirements are that –
  - (a) the person –
    - (i) has a law degree of a British university or of such other university or institution as the Board approves, which includes such subjects as may be specified, or
    - (ii) has passed the examinations and assessments included in any course validated by the Common Professional Examination Board in England and Wales or such other examinations and assessments as may be specified;
  - (b) the person has passed the qualifying examination; and
  - (c) the person has been employed, for the period of 3 years immediately preceding the person's application for admission as a solicitor in accordance with Article 8, in a relevant office or in more than one such office.<sup>6</sup>
- (3) The requirements are that the person has –
  - (a) passed the qualifying examination; and

- (b) completed a total of 5 years' employment in a relevant office or in more than one such office, of which the whole of the 2 years immediately preceding the person's application for admission as a solicitor in accordance with Article 8 has been spent in such employment.
- (4) For the purpose of paragraphs (2)(c) and (3)(b) employment in an advocate's or solicitor's office outside Jersey or in more than one such office during the period of 3 years mentioned in paragraph (2)(c) or the period of 5 years or 2 years mentioned in paragraph (3)(b) shall be taken to be employment in a relevant office during that period if –
  - (a) the total period of employment in the office or offices outside Jersey did not exceed 6 months; and
  - (b) the advocate or solicitor in whose office the person was employed or, if the person was employed in more than one such office, each of them, certifies that during the period of the person's employment in that office the person was engaged predominantly in matters of Jersey law.<sup>7</sup>
- (5) A break in the period of employment of 3 years mentioned in paragraph (2)(c) or a break in the period of employment of 2 years mentioned in paragraph (3)(b), or a break of employment immediately following either period of employment shall be disregarded if –
  - (a) the break did not exceed 6 months; and
  - (b) the Attorney General is satisfied that there was an adequate reason for the break,but any such break or breaks shall not count as part of either period of employment.<sup>8</sup>

## **5 Application for qualifying examination**

- (1) No person may apply to sit the qualifying examination unless –
  - (a) the person has attained the age of 21 years;
  - (b) the person is a qualifying citizen or a qualifying national; and
  - (c) the person fulfils the specified educational requirement (if any).
- (2) An application to sit the qualifying examination shall be made in writing to the President of the Board not later than one month before the beginning of the month in which the examination is due to be held and shall be accompanied by such evidence and information as may be specified.

## **6 Qualifying examination**

- (1) The qualifying examination shall be in such form and in such subjects as are specified.
- (2) Subject to paragraph (3), the qualifying examination shall be held twice in each year, in the months of April and October or in such other months



as may be specified, and shall not commence before the 15th day of the month in question.

- (3) No qualifying examination shall be held unless an application has been made in accordance with Article 5.
- (4) The President of the Board shall, not later than 21 days before the date the qualifying examination commences, notify every applicant of the date when, and the time and place at which the examination is to be held.
- (5) Rules of Court may also provide for –
  - (a) the qualifying examination to be in a different form, including the form of a preliminary examination and a final examination which shall together constitute the qualifying examination, and in different subjects for different descriptions of applicants;
  - (b) the person by whom the syllabus for any subject is to be issued;
  - (c) a person to be exempted from one or more of the papers of the qualifying examination in specified circumstances;
  - (d) a person who has failed to pass any paper of the qualifying examination but who, in the opinion of the panel appointed pursuant to Article 9(3) in relation to that particular examination, has attained a sufficiently high standard generally, to be treated as having passed the examination conditionally on the person's subsequently passing the paper which the person has failed;
  - (e) the Board to have a discretion to treat any person as having a law degree for the purposes of this Law even though the subjects included in the said degree do not wholly correspond with such subjects as may be specified; and
  - (f) such transitional arrangements and savings as the Royal Court considers necessary or expedient.
- (6) Rules of Court shall provide for a paper written by a person sitting the qualifying examination to be identified only by a number assigned to the person by the President of the Board.

## **7 Examination results**

- (1) The President of the Board shall notify every person sitting the qualifying examination of the results of the examination.
- (2) The President of the Board shall deliver to each person who passes the qualifying examination a certificate to that effect.

## **8 Application for admission to the Bar or admission as a solicitor**

- (1) A person who fulfils the requirements in Article 3(1) may apply in writing to the Attorney General for admission to the Bar.
- (2) A person who fulfils the requirements in Article 4(1) may apply in writing to the Attorney General for admission as a solicitor.

- (3) An application made pursuant to paragraph (1) or (2) shall be accompanied by documentary evidence of the applicant's entitlement to admission.
- (4) Upon receipt of an application made pursuant to paragraph (1) or (2), the Attorney General shall forthwith notify the Bailiff, and the Bailiff shall arrange for a sitting of the Royal Court to consider the application as soon as may be practicable.
- (5) At such sitting, the Attorney General shall submit the application and the accompanying documentary evidence to the Royal Court, together with the Attorney General's conclusions.
- (6) If the Royal Court grants the conclusions of the Attorney General it shall –
  - (a) in the case of an application made pursuant to paragraph (1), administer the customary oath to the applicant; or
  - (b) in the case of an application made pursuant to paragraph (2), admit the applicant as a solicitor and administer to the applicant the oath set out in Schedule 1.

## **9 Board of examiners**

- (1) A board of examiners shall be responsible for the conduct of the qualifying examination.
- (2) The Board shall consist of the Deputy Bailiff, who shall be the President of the Board, the Attorney General, the Solicitor General, and such advocates and solicitors of the Royal Court as are for the time being appointed for the purpose by the advocates and solicitors of the Royal Court generally.<sup>9</sup>
- (3) Each qualifying examination shall be conducted by a panel of not less than 5 examiners (at least one of whom shall be the Deputy Bailiff, the Attorney General or the Solicitor General) appointed for that particular examination by the Board from amongst its members.<sup>10</sup>
- (4) Rules of Court may provide for –
  - (a) the co-opting to the Board of non-voting members who are experienced in setting and marking examinations in law but who need not be advocates or solicitors; and
  - (b) the appointment of one or more such non-voting members as adviser to a panel of examiners appointed pursuant to paragraph (3) on the setting and marking of the qualifying examination it is conducting.

## **10 Disciplinary Committee for solicitors**

- (1) There shall be constituted, in accordance with Schedule 2, a Disciplinary Committee for solicitors whose functions shall be –
  - (a) to maintain the standards of the solicitors' profession;

- (b) to reconcile all differences between solicitors on matters of practice and, where necessary, to give a ruling in relation to them;
  - (c) to consider complaints from third parties concerning the conduct of solicitors in the course of practice.
- (2) Where it appears to the Committee that the circumstances so justify, the Committee may –
  - (a) reprimand a solicitor;
  - (b) censure a solicitor, either informally or before a full meeting of the Committee; or
  - (c) refer a matter to the Royal Court in accordance with paragraph (3).
- (3) If a complaint is made against a solicitor which appears to the Committee to be of such gravity that a reprimand or censure would be inadequate, the Committee shall, after co-opting 2 other solicitors, investigate the complaint and, if the Committee decides that the matter should be brought to the attention of the Royal Court, it shall make a report to the Attorney General, who shall present the case for decision to the Royal Court.
- (4) In this Article and in Schedule 2, the “Committee” means the Disciplinary Committee for solicitors constituted pursuant to paragraph (1).

## **11 Rules of Court**

- (1) The power to make Rules of Court under the Royal Court (Jersey) Law 1948<sup>11</sup> shall include a power to make rules for the purposes of this Law.
- (2) Article 3 of the Official Publications (Jersey) Law 1960<sup>12</sup> shall apply to rules made under this Law as it applies to enactments mentioned in that paragraph and accordingly, as soon as may be after such rules are made, the Judicial Greffier shall transmit a certified copy of them to the Greffier of the States.

## **12 Transitional provisions, savings and repeals**

Subject to the transitional provisions and savings in Schedule 3, the enactments specified in the first column of Schedule 4 are repealed to the extent indicated in the second column of that Schedule.

## **13 Citation**

This Law may be cited as the Advocates and Solicitors (Jersey) Law 1997.

**SCHEDULE 1**

(Article 8(6)(b))

**OATH OF OFFICE OF SOLICITORS OF THE ROYAL COURT<sup>13</sup>**

Vous jurez et promettez par la foi et serment que vous devez à Dieu, que bien et fidèlement vous exercerez la profession d'écrivain près les Tribunaux de ce pays sous notre Souveraine Dame Elizabeth Deux, par la Grâce de Dieu Reine du Royaume Uni de la Grande Bretagne et de l'Irlande du Nord et de Ses autres Royaumes et Territoires, Chef du Commonwealth, Défenseur de la Foi, la Majesté de laquelle vous reconnoissez sous Dieu, suprême Gouverneur en tous ses Royaumes, Provinces et Territoires, quittant et renonçant à toutes autres supériorités foraines et étrangères; vous garderez le droit de Sa Majesté et de ses sujets, et soutiendrez l'honneur et gloire de Dieu et de sa pure parole; vous défendrez et maintiendrez les lois et usages, privilèges, franchises, coutumes et libertés de l'Isle, vous opposant à quiconque les voudroit enfreindre. Vous n'entreprendrez ni ne soutiendrez aucune cause ou affaire qui vous paroîtra dénuée de tout droit, ou proposée avec méchanceté. Vous ne controuvez aucun faits, si vos clients ne vous les ont affirmés pour vrais. Vous ne proposerez ni alléguerez aucun fait, coutume ni usage, que vous sçauvez être contraires à droit et justice; et si aucune chose touche le droit de Sa Majesté, vous en informerez les Officiers de la Couronne, et le maintiendrez. Vous ne ferez aucun marché ni contrat avec vos clients d'aucune cause ou affaire contentieuse, ni de partie d'icelle. Vous vous contenterez de gages et salaires raisonnables, et assisterez aux veuves, pauvres et orphelins. Et finalement vous vous conformerez selon le bon avis de Monsieur le Bailli, ou de Monsieur le Député-Bailli, ou de Monsieur le Lieutenant-Bailli, ou de Messieurs de Justice.

**SCHEDULE 2**

(Article 10(1))

**DISCIPLINARY COMMITTEE FOR SOLICITORS**

- 1 The Committee shall consist of 5 members, elected by absolute majority at a general meeting of practising solicitors.
- 2 The elections shall take place every 3 years and existing members of the Committee shall be eligible for re-election.
- 3 The Committee shall elect a President and a Secretary.
- 4 Every complaint against a solicitor shall be forwarded to the President, who shall convene the Committee at the earliest opportunity to consider the matter.
- 5 Except for the purposes of Article 10(3), the Committee shall be lawfully constituted and may conduct any business which it is in their power to conduct if 3 members, including the President or Secretary, are present.

**SCHEDULE 3**

(Article 12)

*Transitional provisions and savings***1**

In this Schedule –

“1968 Law” means the Advocates (Jersey) Law 1968;<sup>14</sup>

“1971 Law” means the Solicitors (Jersey) Law 1971.<sup>15</sup>

*Advocates***2**

(1) A person who –

(a) passes –

(i) either 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 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, and

(ii) either the qualifying examination described in paragraph (2)(a) or the qualifying examination described in paragraph (2);

and

(b) before the day appointed in accordance with sub-paragraph (2), obtains a *Certificat d’Etudes Juridiques Françaises et Normandes* of the University of Caen, or any equivalent qualification specified,

shall be deemed to have complied with the requirements in Article 3(2).

(2) The States may by Act appoint a day for the purposes of sub-paragraph (1)(b).<sup>16</sup>

**3**

A solicitor who has passed the qualifying examination described in paragraph 5(2) shall be deemed to have complied with the requirement in Article 3(3)(b).

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*Savings***4**

- (1) Notwithstanding the repeal of the 1968 Law, any Rules of Court made under it which have effect before the day this Law comes into force shall continue to have effect as if made under this Law in the case of a person intending to seek admission to the Bar.
- (2) In a case where Rules of Court made under the 1968 Law continue to have effect –
  - (a) any reference in this Law to the “qualifying examination” shall be construed as a reference to the appropriate examination specified in those Rules for the purpose of Article 1(1)(e) of the 1968 Law; and
  - (b) the reference in paragraph 2(1)(b) to any equivalent qualification specified shall be construed as a reference to any equivalent qualification specified in those Rules for the purposes of Article 1(1)(dd) of the 1968 Law.

**5**

- (1) Notwithstanding the repeal of the 1971 Law, any Rules of Court made under it which have effect before the day this Law comes into force shall, subject to paragraph 6, continue to have effect as if made under this Law –
  - (a) in the case of a person intending to seek admission as a solicitor; and
  - (b) for the purposes of paragraph 2(1)(a)(ii), in the case of a person intending to seek admission to the Bar.
- (2) In a case where Rules of court made under the 1971 Law continue to have effect, any reference in this Law to the “qualifying examination” shall be construed as a reference to the qualifying examination specified in those Rules.

**6**

The reference in Rule 2 of the Solicitors (Qualifying Examination) (Re-examination) (Jersey) Rules 1994<sup>17</sup> to the “month of October” shall be construed as a reference to the “month of April or the month of October”.

**7**

The Disciplinary Committee constituted in accordance with Article 8 of the 1971 Law shall continue in existence as if constituted in accordance with Article 10 of this Law.

**SCHEDULE 4**

(Article 12)

**ENACTMENTS REPEALED**

| (1)   | (2)                     |
|---|-------------------------|
| <b>Title of enactment</b>                     | <b>Extent of repeal</b> |
| Advocates (Jersey) Law 1968                   | The whole Law           |
| Advocates (Amendment) (Jersey) Law 1971       | The whole Law           |
| Solicitors (Jersey) Law 1971                  | The whole Law           |
| Advocates (Amendment No. 2) (Jersey) Law 1990 | The whole Law           |
| Solicitors (Amendment) (Jersey) Law 1994      | The whole Law           |
| Advocates (Amendment No. 3) (Jersey) Law 1995 | The whole Law           |



## ENDNOTES

### Table of Legislation History

| Legislation  | Year and Number | Commencement  |
|--|-----------------|---|
| Advocates and Solicitors (Jersey) Law 1997   | L.6/1997        | 1 August 1997,<br>Schedule 3, paragraph<br>2(1)(b) in force 1<br>January 1999<br>(R&O.9096) |
| Departments of the Judiciary and<br>the Legislature (Amendment No. 3)<br>(Jersey) Law 1997 | L.18/1997       | 1 August 1997<br>(R&O.9097)   |
| Advocates and Solicitors<br>(Amendment) (Jersey) Law 1998                                  | L.3/1998        | 16 January 1998   |
| Advocates and Solicitors<br>(Amendment No. 2) (Jersey)<br>Law 2000                         | L.1/2000        | 14 January 2000   |
| Advocates and Solicitors<br>(Amendment No. 3) (Jersey) Law<br>2003                         | L.24/2003       | 18 July 2003  |

### Table of Renumbered Provisions

| Original           | Current                                     |
|--------------------|---|
| 1(2A)              | 1(3)  |
| 1(4), (5), (6)     | spent, omitted from<br>this revised edition |
| FIRST SCHEDULE     | SCHEDULE 1                                  |
| SECOND<br>SCHEDULE | SCHEDULE 2                                  |
| THIRD<br>SCHEDULE  | SCHEDULE 3                                  |
| FOURTH<br>SCHEDULE | SCHEDULE 4                                  |

### Table of Endnote References

|                            |                              |
|----------------------------|------------------------------|
| <sup>1</sup> Article 1(3)  | <i>inserted by L.3/1998</i>  |
| <sup>2</sup> Article 3(2)  | <i>amended by L.3/1998</i>   |
| <sup>3</sup> Article 3(3)  | <i>amended by L.3/1998</i>   |
| <sup>4</sup> Article 3(4)  | <i>inserted by L.24/2003</i> |
| <sup>5</sup> Article 3(5)  | <i>inserted by L.24/2003</i> |
| <sup>6</sup> Article 4(2)  | <i>amended by L.3/1998</i>   |
| <sup>7</sup> Article 4(4)  | <i>inserted by L.24/2003</i> |
| <sup>8</sup> Article 4(5)  | <i>inserted by L.24/2003</i> |
| <sup>9</sup> Article 9(2)  | <i>amended by L.18/1997</i>  |
| <sup>10</sup> Article 9(3) | <i>amended by L.18/1997</i>  |

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- <sup>11</sup> *chapter 07.770*  
<sup>12</sup> *chapter 15.440*  
<sup>13</sup> *Schedule 1* *amended by L.1/2000*  
<sup>14</sup> *L.15/1968*  
<sup>15</sup> *L.17/1971*  
<sup>16</sup> *Schedule 3* *paragraph 2 amended by L.3/1998*  
<sup>17</sup> *R&O.8712*