



Jersey

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

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Jersey

ADVOCATES AND SOLICITORS (QUALIFYING EXAMINATION) RULES 1997

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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 and, if applying to sit the final examination, must have enrolled on an approved course of instruction.³
- (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 –
 - (i) 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
 - (ii) accredited by the Law Society of Scotland for admission to the Roll of Solicitors in Scotland; or
 - (d) passed the examinations and assessments included in any course –
 - (i) 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), or
- (ii) validated by the Faculty of Advocates in Scotland for admission as a member of the Faculty of Advocates in Scotland; or
 - (e) passed the examinations and assessments leading to the award of a Certificate of Professional Legal Studies by the Institute of Professional Legal Studies of the Queen's University of Belfast or met such equivalent requirements as may be recognized for the time being by –
 - (i) the Law Society of Northern Ireland, or
 - (ii) the Executive Council of the Honorable Society of the Inn of Court of Northern Ireland.⁴
 - (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).
 - (4) In these Rules –
 - “approved” means approved by the Board;
 - “course of instruction” means a course of instruction in the law of Jersey set by an approved person or body.⁵

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 1997⁶ (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 examination⁷

- (1) A candidate who has the general qualification, but not a legal qualification, must sit a preliminary examination and a final examination.
- (2) A candidate who has a legal qualification need only sit the final examination.

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- (3) The preliminary examination consists of 6 papers on the following subjects –
- (a) the English law of contract;
 - (b) the English law of tort;
 - (c) principles of English criminal law and the law of evidence;
 - (d) principles of English constitutional and administrative law;
 - (e) principles of English equity and the law of trusts; and
 - (f) the law of the European Union.⁸
- (4) The final examination consists of –
- (a) 6 papers on the following subjects in Jersey law –
 - (i) Paper 1: 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, English common law and the law of other legal systems) and constitutional law;
 - (ii) Paper 2: the law of contract;
 - (iii) Paper 3: the law of testate and intestate succession;
 - (iv) Paper 4: the law of immovable property;
 - (v) Paper 5: civil procedure and criminal procedure, including legal professional ethics;
 - (vi) Paper 6: the law of security over movable property and bankruptcy; and
 - (b) subject to paragraph (5), one paper on a subject chosen by the candidate from the following options –
 - (i) company law,
 - (ii) trust law, and
 - (iii) family law.⁹
- (4A) Paragraph (4) applies to the final examinations held after 1st January 2014.¹⁰
- (4B) Subject to paragraph (18), in relation to any final examination held before 1st January 2014 –
- (a) a pass in 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) and constitutional law, counts as a pass in Paper 1 after that date;
 - (b) a pass in the law of contract and the law relating to security on movable property and bankruptcy counts as a pass in both Paper 2 and Paper 6 after that date;
 - (c) a pass in testate and intestate succession counts as a pass in Paper 3 after that date;
 - (d) a pass in the law of immovable property and conveyancing counts as a pass in Paper 4 after that date;

- (e) a pass in civil procedure and criminal procedure counts as a pass in Paper 5 after that date; and
 - (f) a pass in one of the options of company law, trust law or family law counts as a pass in that option after that date.¹¹
- (5) A candidate shall be exempt from the paper referred to in paragraph (4)(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 Advocates (Examinations) (Jersey) Rules 1989¹².
- (6) The syllabus for each of the subjects described in paragraphs (3) and (4) shall be such as is issued from time to time by the Bailiff after consultation with the Board.
- (7) The Board shall, in accordance with Article 6 of the principal Law, appoint sessions for the holding of the preliminary examination (if necessary) and for the holding of the final examination each year –
 - (a) in June and July; and
 - (b) in September.¹³
- (8) Each session shall be held over 6 weekdays with no more than one paper being held on any one day.
- (9) Each paper in the preliminary examination shall be of 3 hours duration.
- (10) Each paper in the final examination shall be of 3 hours duration.¹⁴
- (11) The President of the Board shall –
 - (a) assign a number to each candidate; and
 - (b) when notifying the candidate of the date, time and place of the examination, inform the candidate of the number so assigned.
- (12) A paper written by a candidate shall be identified only by the number assigned to the candidate.
- (13) The Board may supply to the candidates in the examination room books, papers or information recorded in any form relevant to the paper concerned.
- (14) No book, paper or information recorded in any form relevant to an examination shall be taken into or used in an examination room other than a book, paper or information supplied by the Board pursuant to paragraph (13).
- (15) A candidate sitting the preliminary examination must attempt all the papers at any one session.
- (16) A candidate sitting the final examination may not attempt less than 2 papers at any one session.
- (17) Notwithstanding paragraph (16), if –
 - (a) it remains for a candidate to pass only one paper; or

- (b) a candidate wishes to re-sit a paper that the candidate has failed to pass at the immediately preceding session,
he or she may attempt that paper.¹⁵
- (18) In order to pass the final examination a candidate must pass all the papers referred to in paragraph (4) required of that candidate within a period of 6 successive sessions appointed by the Board under paragraph (7) commencing with the session in which he or she first sat any of those papers.¹⁶
- (19) A candidate who has not passed all the papers within the period referred to in paragraph (18) shall, subject to paragraphs (20) and (21), have failed the examination, but without prejudice to his or her right to begin the final examination again at a subsequent session.¹⁷
- (20) If the Board is satisfied that, within the period referred to in paragraph (18), personal circumstances of an exceptional nature have impaired the ability of a candidate to sit any one or more of the papers, the Board may permit the candidate to attempt one or more of the papers after that period.
- (21) If the Board is satisfied that a candidate who failed to pass one of the papers within the period referred to in paragraph (18) has in the other papers attained a sufficiently high standard, the Board may permit the candidate to be re-examined in that paper at the next session appointed by the Board under paragraph (7).¹⁸

4 Application to sit an examination¹⁹

- (1) A person applying to sit the preliminary examination shall produce evidence that he or she –
 - (a) fulfils the requirements described in Article 5(1)(a) and (b) of the principal Law; and
 - (b) has the general qualification.
- (2) A person applying to sit the final examination shall, when application is made at the first of the sessions referred to in Rule 3(18) –
 - (a) produce evidence that he or she –
 - (i) fulfils the requirements described in Article 5(1)(a) and (b) of the principal Law,
 - (ii) has a legal qualification or has passed the preliminary examination, and
 - (iii) has enrolled on an approved course of instruction;
 - (b) indicate which of the papers in the examination he or she wishes to attempt at that session; and
 - (c) if the person claims an exemption under Rule 3(5), produce evidence that he or she –
 - (i) has obtained one of the *Certificats* referred to in subparagraph (a) of that Rule, or

- (ii) has passed the examination referred to in sub-paragraph (b) of that Rule.²⁰
- (3) A person applying to sit the final examination shall, when application is made at the second or a subsequent session referred to in Rule 3(18), indicate which of the papers in the examination he or she wishes to attempt at that session.²¹
- (4) An application to the Board for permission under Rule 3(20) to attempt a paper on a later occasion must be made in writing to the President of the Board.

5 Conditional passes (preliminary examination)²²

- (1) If the panel of examiners appointed under Article 9(3) of the principal Law for the preliminary examination is of the opinion that a person who has failed to pass one of the papers in that 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 preliminary examination conditionally upon passing that paper.
- (2) If a person re-examined in a paper fails again to pass that paper, the panel may permit the person to be re-examined in that paper on a further occasion or occasions.
- (3) An application under this Rule to be re-examined in a paper shall be made in the same manner as an application to sit the preliminary examination, except that the evidence referred to in Rule 4(1) need not be produced.

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.

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8 Citation

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

SCHEDULE²⁴

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
Advocates and Solicitors (Qualifying Examination) (Amendment No. 2) Rules 2006	R&O.30/2006	30 March 2006
Advocates and Solicitors (Qualifying Examination) (Amendment No. 3) Rules 2006	R&O.90/2006	1 December 2006
Advocates and Solicitors (Qualifying Examination) (Amendment No. 4) Rules 2008	R&O.140/2008	4 November 2008
Advocates and Solicitors (Qualifying Examination) (Amendment No. 5) Rules 2009	R&O.51/2009	1 January 2010
Advocates and Solicitors (Qualifying Examination) (Amendment No. 6) Rules 2010	R&O.63/2010	5 July 2010
Advocates and Solicitors (Qualifying Examination) (Amendment No. 7) Rules 2013	R&O.52/2013	1 January 2014

Table of Endnote References

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- ¹ chapter 07.770
- ² chapter 07.070
- ³ Rule 1(1) amended by R&O.51/2009
R&O.51/2009 contains the following transitional rule -
“5 Transitional exemption
The requirement under Rule 1 of the principal Rules, as amended by these Rules, to enrol on an approved course of instruction does not apply to a person who before 1st January 2010 has passed one or more of the papers in the final examination and remains a candidate.”
- ⁴ Rule 1(2) amended by R&O.30/2006
- ⁵ Rule 1(4) inserted by R&O.51/2009
- ⁶ chapter 07.070
- ⁷ Rule 3 substituted by R&O.90/2006; former Rule 3(3) substituted by R&O.9192; Rule 2A was inserted in the original by R&O.8639
- ⁸ Rule 3(3) amended by R&O.52/2013
- ⁹ Rule 3(4) substituted by R&O.52/2013
- ¹⁰ Rule 3(4A) inserted by R&O.52/2013
- ¹¹ Rule 3(4B) inserted by R&O.52/2013
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- ¹² *R&O.8014 (repealed by R&O.9142 – chapter 07.070.50)*
- ¹³ *Rule 3(7) amended by R&O.51/2009*
- ¹⁴ *Rule 3(10) amended by R&O.52/2013*
- ¹⁵ *Rule 3(17) substituted by R&O.63/2010*
- ¹⁶ *Rule 3(18) amended by R&O.140/2008, R&O.51/2009*
- ¹⁷ *Rule 3(19) amended by R&O.140/2008*
- ¹⁸ *Rule 3(21) inserted by R&O.140/2008*
- ¹⁹ *Rule 4 substituted by R&O.90/2006*
- ²⁰ *Rule 4(2) amended by R&O.51/2009*
- ²¹ *Rule 4(3) amended by R&O.51/2009*
- ²² *Rule 5 substituted by R&O.90/2006 which contains the following Rule -*
- 3 Transitional provision (existing conditional passes)**
- (1) *This Rule applies to a person who, before the commencement of these Rules, failed to pass one of the papers in the final examination but was, or was able to be, permitted to be re-examined in that paper under Rule 5 of the principal Rules.*
- (2) *A person to whom this Rule applies shall still be, or able to be, permitted to be re-examined as though these Rules had not been made, but the paper in which he or she is, or may be, re-examined shall, if the subjects of which the paper consists have been altered by these Rules, be the paper referred to in Rule 3(4) of the principal Rules as amended by these Rules whose subjects most nearly approximate to those of the paper that he or she failed to pass (and the syllabus for the paper shall be that issued pursuant to Rule 3(6) of the principal Rules as amended by these Rules).*
- ²³ *Rule 7 repealed by R&O.90/2006*
- ²⁴ *Schedule repealed by R&O.90/2006*