

Jersey Law 6/1997

ADVOCATES AND SOLICITORS (JERSEY) LAW 1997

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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, sanctioned by Order of Her Majesty in Council of the

12th day of FEBRUARY 1997

(Registered on the 28th day of February 1997)

STATES OF JERSEY

The 22nd day of October 1996

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

ARTICLE 1

Interpretation

(1) In this Law –

“the 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 sub-paragraph (2) of paragraph 4 and sub-paragraph (2) of paragraph 5 of the Third Schedule;

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

“the 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 he is a Commonwealth citizen or a citizen of the European Union, and a qualifying national if he is a national of an EFTA State which is a party to the European Economic Area Agreement.

(3) A reference in this Law to an Article by number only, and without further identification, is a reference to the Article of that number contained in this Law.

(4) A reference in an Article or other division of this Law to a paragraph, sub-paragraph or clause by number or letter only, and without further identification, is a reference to the paragraph, sub-paragraph or clause of that number or letter contained in the Article or other division of this Law in which the reference occurs.

(5) A reference in this Law or any enactment made under it to an enactment is a reference to that enactment as amended, and includes a reference to that enactment as extended or applied by or under any other enactment, including any other provision of that enactment.

ARTICLE 2

Entitlement to practise as an advocate or solicitor

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

(2) A person shall be entitled to practise as a solicitor if he has been admitted as a solicitor in accordance with Article 8.

ARTICLE 3

Requirements for admission to the Bar

- (1) A person shall be entitled to be admitted to the Bar if –
 - (a) he is a qualifying citizen or a qualifying national; and
 - (b) he fulfils the requirements in paragraph (2) or (3).
- (2) The requirements are that –
 - (a) he has passed –
 - (i) either the examinations set by the Council of Legal Education for call to the Bar of England and Wales by any one of the Inns of Court in England or the examinations set by the Law Society of England and Wales for enrolment as a solicitor of the Supreme Court of England and Wales or such other examinations as may be specified, and
 - (ii) the qualifying examination;
 - and
 - (b) he has been employed, for the period of two years immediately preceding his application for admission to the Bar in accordance with Article 8, in a relevant office or in more than one such office.
- (3) The requirements are –
 - (a) that he is admitted as a solicitor; and
 - (b) either –
 - (i) that when so admitted he had passed either the examinations set by the Council of Legal Education

for call to the Bar of England and Wales by any one of the Inns of Court in England and Wales or the examinations set by the Law Society of England and Wales for enrolment as a solicitor of the Supreme Court of England and Wales or such other examination as may be specified; or

- (ii) that he has practised as a solicitor for a period of three years.

ARTICLE 4

Requirements for admission as a solicitor

- (1) A person shall be entitled to be admitted as a solicitor if
 - (a) he is a qualifying citizen or a qualifying national; and
 - (b) he fulfils the requirements in paragraph (2) or (3).
- (2) The requirements are that –
 - (a) he –
 - (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 common professional examination set by the Law Society of England and Wales or such other examination as may be specified;
 - (b) he has passed the qualifying examination; and
 - (c) he has been employed, for the period of three years immediately preceding his application for admission as a solicitor in accordance with Article 8, in a relevant office or in more than one such office.

- (3) The requirements are that he has –
- (a) passed the qualifying examination; and
 - (b) completed a total of five years' employment in a relevant office or in more than one such office, of which the whole of the two years immediately preceding his application for admission as a solicitor in accordance with Article 8 has been spent in such employment.

ARTICLE 5

Application for qualifying examination

- (1) No person may apply to sit the qualifying examination unless –
- (a) he has attained the age of twenty-one years;
 - (b) he is a qualifying citizen or a qualifying national; and
 - (c) he 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.

ARTICLE 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 twenty-one 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 paragraph (3) of Article 9 in relation to that particular examination, has attained a sufficiently high standard generally, to be treated as having passed the examination conditionally on his subsequently passing the paper which he 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 him by the President of the Board.

ARTICLE 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.

ARTICLE 8

Application for admission to the Bar or admission as a solicitor

(1) A person who fulfils the requirements in paragraph (1) of Article 3 may apply in writing to the Attorney General for admission to the Bar.

(2) A person who fulfils the requirements in paragraph (1) of Article 4 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 his 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 him the oath set out in the First Schedule.

ARTICLE 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, the Judicial Greffier 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.

(3) Each qualifying examination shall be conducted by a panel of not less than five examiners (at least one of whom shall be the Deputy Bailiff, the Attorney General, the Solicitor General or the Judicial Greffier) appointed for that particular examination by the Board from amongst its members.

(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.

ARTICLE 10

Disciplinary Committee for solicitors

(1) There shall be constituted, in accordance with the Second Schedule, 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; or
- (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 two 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 the Second Schedule, “the Committee” means the Disciplinary Committee for solicitors constituted pursuant to paragraph (1).

ARTICLE 11

Rules of court

(1) The power to make rules of court under the Royal Court (Jersey) Law 1948¹ shall include a power to make rules for the purposes of this Law.

(2) Paragraph (1) of Article 3 of the Official Publications (Jersey) Law 1960² 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.

ARTICLE 12

Transitional provisions, savings and repeals

Subject to the transitional provisions and savings in the Third Schedule, the enactments specified in the first column of the Fourth Schedule to this Law are repealed to the extent indicated in the second column of that Schedule.

¹ Tome VII, page 502, Volume 1979–1981, page 195, Volume 1984–1985, page 175, Volume 1990–1991, page 113, and Volume 1992–1993, page 461.

² Tome VIII, page 883.

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ARTICLE 13

Citation and commencement

This Law may be cited as the Advocates and Solicitors (Jersey) Law 1997 and shall come into force on such day as the States may by Act appoint.

C.M. NEWCOMBE

Deputy Greffier of the States.

FIRST SCHEDULE**(Article 8(6)(b))****Oath of office of solicitors of the Royal Court**

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 aucuns 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 Commis-Bailli, ou de Monsieur le Lieutenant-Bailli, ou de Messieurs de Justice.

SECOND SCHEDULE**(Article 10(1))****Disciplinary Committee for solicitors**

1. The Committee shall consist of five members, elected by absolute majority at a general meeting of practising solicitors.
2. The elections shall take place every three 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 paragraph (3) of Article 10, the Committee shall be lawfully constituted and may conduct any business which it is in their power to conduct if three members, including the President or Secretary, are present.

THIRD SCHEDULE**(Article 12)****Transitional provisions and savings**

1. In this Schedule –

“the 1968 Law” means the Advocates (Jersey) Law 1968³;

“the 1971 Law” means the Solicitors (Jersey) Law 1971⁴.

Advocates

2.-(1) A person who –

(a) passes –

(i) either the examinations set by the Council of Legal Education for call to the Bar of England and Wales by any one of the Inns of Court in England or the examinations set by the Law Society of England and Wales for enrolment as a solicitor of the Supreme Court of England and Wales, and

(ii) either the qualifying examination described in clause (a) of sub-paragraph (2) of paragraph 4 or the qualifying examination described in sub-paragraph (2) of paragraph 5;

and

(b) before the day appointed in accordance with sub-paragraph (2), obtains a “Certificat d’Etudes Juridiques Françaises et

³ Volume 1968–1969, page 123, Volume 1970–1972, page 213, Volume 1990–1991, page 91, and Volume 1994–1995, page 247.

⁴ Volume 1970–1972, page 223, and Volume 1994–1995, page 113.

Normandes” of the University of Caen, or any equivalent qualification specified,

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

(2) The States may by Act appoint a day for the purposes of clause (b) of sub-paragraph (1).

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

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 sub-paragraph (e) of paragraph (1) of Article 1 of the 1968 Law; and
- (b) the reference in clause (b) of sub-paragraph (1) of paragraph 2 to any equivalent qualification specified shall be construed as a reference to any equivalent qualification specified in those Rules for the purposes of sub-paragraph (dd) of paragraph (1) of Article 1 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 sub-clause (ii) of clause (a) of sub-paragraph (1) of paragraph 2, 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 1994⁵ 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.

⁵ R & O 8712.

*Jersey Law 6/1997**Advocates and Solicitors (Jersey) Law 1997***FOURTH SCHEDULE****(Article 12)****Enactments repealed⁶**

<i>(1)</i>	<i>(2)</i>
<i>Title of enactment</i>	<i>Extent of repeal</i>
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

⁶ Volume 1968–1969, page 123, Volume 1970–1972, pages 213 and 223, Volume 1990–1991, page 91, and Volume 1994–1995, pages 133 and 247.