



Jersey

L.9/2005

THE LAW SOCIETY OF JERSEY LAW 2005

Arrangement

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Jersey

THE LAW SOCIETY OF JERSEY LAW 2005

A **LAW** to incorporate The Law Society of Jersey; to provide for its administration and for the disciplinary control of advocates and solicitors of the Royal Court; and for connected purposes.

Adopted by the States

2nd November 2004

Sanctioned by Order of Her Majesty in Council

9th February 2005

Registered by the Royal Court

4th March 2005

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

1 Interpretation

(1) In this Law, unless the context otherwise requires –

“advocate” means an advocate of the Royal Court;

“bye-laws” means bye-laws made under Article 16 by The Law Society of Jersey;

“Committee” means the Committee of The Law Society of Jersey to which Article 10 refers;

“Committee member” means the President, Secretary, Treasurer, Librarian or any other member of the Committee;

“disciplinary committee” means a disciplinary committee selected in accordance with Article 21(1);

“disciplinary panel” means the disciplinary panel to which Article 18 refers;

“Law Society” and “Society” mean The Law Society of Jersey to which Article 2 refers;

“officer”, in relation to the Law Society, means the President, Secretary, Treasurer or Librarian;

“ordinary member” means a member of the Law Society to whom Article 4(1) refers;

“practitioner” means an advocate or solicitor;

“practitioner of at least 10 years’ standing” means a person –

- (a) who is a practitioner; and
- (b) who has been a practitioner for at least 10 years, whether or not continuously;

“President” means the President of the Law Society to whom Article 10(2)(a) refers;

“solicitor” means a solicitor of the Royal Court;

“special resolution” means a resolution that is passed by a majority of not fewer than two-thirds of the persons who, being entitled to do so, vote in person or by proxy;

“this Law” includes the bye-laws.

- (2) For the purposes of this Law –
 - (a) in the case of an election, a candidate has a simple majority if he or she receives more votes than any other candidate; and
 - (b) in the case of any other question arising for decision “a simple majority” means the majority of the votes cast,being in either case the votes of persons who, being entitled to do so, vote in person or by proxy.

PART 1

THE LAW SOCIETY OF JERSEY

2 Incorporation of The Law Society of Jersey

- (1) On the commencement of this Law, the association of persons now called The Law Society of Jersey shall become a body corporate with perpetual succession and a common seal and may –
 - (a) sue and be sued in its corporate name; and
 - (b) so far as possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.
- (2) The name of the body corporate shall continue to be The Law Society of Jersey.

3 Membership of the Law Society

- (1) From the commencement of this Law, the Law Society shall consist of –
 - (a) its existing members; and

- (b) each person who subsequently becomes a member in accordance with this Law.
- (2) No person shall practise law as an advocate or solicitor unless he or she is an ordinary member of the Law Society.
- (3) A person who contravenes paragraph (2) shall be guilty of an offence and liable to a fine.

4 Classes of members

- (1) A practitioner who intends to practise law and is not suspended from practice shall be entitled, on his or her application, to be admitted as an ordinary member.
- (2) The bye-laws may provide for other classes of members.

5 Termination of membership

- (1) A person shall cease to be an ordinary member –
 - (a) on resigning, by notice in writing delivered to the Secretary; or
 - (b) on transferring, in accordance with the bye-laws, to any other class of membership provided for in the bye-laws.
- (2) A person shall cease to be an ordinary member on ceasing to be a practitioner.
- (3) The bye-laws may provide for the termination of the membership of a person who is not an ordinary member.
- (4) The bye-laws may prescribe the period of notice to be given by any member before his or her resignation has effect.

6 Suspension of membership

- (1) While an ordinary member is suspended from practice as an advocate or solicitor, his or her membership of the Law Society shall be automatically suspended by operation of this paragraph.
- (2) The bye-laws may provide –
 - (a) for the suspension from membership of an ordinary member while any money is due by the member under this Law to the Law Society; and
 - (b) for the suspension from membership of a person who is not an ordinary member.
- (3) A person whose membership is suspended shall not be regarded as a member for the purposes of this Law.
- (4) Paragraph (3) of this Article does not affect a person's liability under Article 7(1).

7 Liability of members

- (1) A person shall be liable to contribute towards the Law Society's assets and liabilities the amounts due by the person to it under this Law.
- (2) However, no one shall be liable, by reason only of being a member or former member of the Law Society, to contribute any other amount personally to the assets and liabilities of the Society.

8 Objects of the Law Society

The objects of the Law Society shall be –

- (a) to encourage and promote the upholding of the rule of law;
- (b) to promote high standards of professional conduct among practitioners;
- (c) to regulate, foster and protect the interests of its members and the practice of law in Jersey;
- (d) to encourage and promote the study of law;
- (e) to make representations, as appropriate, on any matter affecting –
 - (i) the administration of the law, the judicial system or the legal profession,
 - (ii) civil rights or liberties or matters of public interest, or
 - (iii) the enactment of legislation or the review or reform of existing laws; and
- (f) to do everything that is reasonably incidental or conducive to the attainment of those objects.

PART 2**ADMINISTRATION OF THE LAW SOCIETY****9 Meetings of the Law Society**

- (1) The Law Society shall hold an annual general meeting in every year.
- (2) The Law Society may hold other general meetings.
- (3) At a general meeting –
 - (a) each ordinary member shall have one vote on each question arising for decision; and
 - (b) each question shall be decided by a simple majority.
- (4) Paragraph (3) of this Article is subject to –
 - (a) the provisions of Article 16(3) relating to an equality of votes on a question; and
 - (b) Article 17(1) (under which the power of the Law Society to make bye-laws is exercisable only by special resolution).

10 The Committee of The Law Society

- (1) There shall continue to be a Committee of The Law Society, which shall be the executive body of the Law Society and shall administer its affairs in its name and on its behalf.
- (2) From the commencement of this Law, the Committee shall consist of the following persons –
 - (a) the President of the Law Society;
 - (b) the Secretary of the Society;
 - (c) the Treasurer of the Society;
 - (d) the Librarian; and
 - (e) such other Committee members as the bye-laws may specify.
- (3) The President, the Secretary, the Treasurer and the Librarian are the officers of the Law Society.
- (4) A person shall be eligible to be a Committee member if, but only if –
 - (a) he or she is an ordinary member of the Law Society; or
 - (b) he or she is a member of any other class, and the bye-laws provide that members of that class are eligible to be Committee members.
- (5) At a meeting of the Committee –
 - (a) each Committee member shall have one vote on any question arising for decision; and
 - (b) each question shall be decided by a simple majority.
- (6) Paragraph (5) of this Article is subject to the provisions of Article 16(3) relating to an equality of votes on a question.
- (7) If the number of persons who are Committee members is for the time being fewer than 4, the Committee may only act for the purposes of having a vacancy filled.
- (8) However, the powers of the Committee are not otherwise affected by a vacancy in its membership.
- (9) The Committee may appoint any of its members to exercise and perform the functions, powers and duties under this Law of any officer while that officer is for the time being unable to act.
- (10) Subject to the other provisions of this Law, the Committee may regulate its own procedure.

11 Election of Committee members

- (1) The members of the Committee shall be elected by the Law Society at an annual general meeting.
- (2) Unless the bye-laws provide for a longer term of office, a Committee member shall hold office until the annual general meeting next following the one at which the member is elected.

- (3) Unless the bye-laws provide otherwise, a Committee member shall be eligible for re-election.
- (4) This Article is subject to Article 12.

12 Vacation of office

- (1) A Committee member shall cease to hold office –
 - (a) on resigning, by notice in writing delivered to the Committee;
 - (b) on ceasing to be eligible to be a Committee member;
 - (c) on being suspended from practice as an advocate or solicitor;
 - (d) on becoming bankrupt;
 - (e) on the appointment of a curator of the member's property and affairs under the Mental Health (Jersey) Law 1969;¹
 - (f) on being received into guardianship under the Mental Health (Jersey) Law 1969;² or
 - (g) on being removed by the Law Society at a general meeting.
- (2) If a Committee member ceases to hold office before the expiry of the member's term, the Law Society may at a general meeting elect another person to fill the vacancy.
- (3) A person who is elected to fill such a vacancy shall hold office, subject to the other provisions of this Law, for the remainder of the term of the Committee member whom he or she replaces.

13 Powers of the Law Society

- (1) In furtherance of its objects, the Law Society may –
 - (a) enter into contracts;
 - (b) acquire property (gratuitously or onerously, or beneficially or on trust);
 - (c) dispose of its property in any manner (gratuitously or onerously, beneficially or on trust);
 - (d) create, execute or perform trusts;
 - (e) operate bank accounts;
 - (f) invest in stocks, funds, shares, securities and other investments;
 - (g) borrow or lend money, with or without having given or taken security;
 - (h) guarantee the performance of obligations by other persons; and
 - (i) participate in joint ventures with other persons.
- (2) The Law Society may provide for the payment of compensation to persons who suffer or are likely to suffer loss or hardship in consequence of the fault of a member or of a partner or employee of a member of the Society.
- (3) The Law Society may –
 - (a) provide and maintain a law library; and

- (b) publish, sell and distribute books, pamphlets, papers and other information for the purposes of stimulating interest in and promoting its objects.
- (4) In furtherance of its objects, the Law Society may retain the services of any person (whether or not a member) and employ staff on such terms and conditions (including provision for pensions or gratuities) as it may agree.
- (5) The Law Society shall have such other powers as are reasonably necessary for or incidental to the attainment of its objects.

14 Application of assets

- (1) The assets and income of the Law Society may be applied only in furtherance of its objects, or for such other purposes as are for the time being authorized or required by any enactment or rule of law.
- (2) The assets and income of the Law Society shall not be distributed directly or indirectly amongst its members without the prior approval of the Royal Court.
- (3) Paragraph (2) does not apply to the payment of remuneration by the Law Society to any of its members for services rendered by the member to it at its request.

15 Accounts

- (1) The Committee shall keep full and accurate accounts of all money received and spent by the Law Society, and of its assets and liabilities.
- (2) The accounts shall give a fair view of the Law Society's affairs and explain its transactions.
- (3) The bye-laws may provide for the auditing of the Law Society's accounts.

16 Bye-laws

- (1) The Law Society may make bye-laws for the internal management of its affairs.
- (2) In relation to the membership of the Law Society, the bye-laws may provide for the following matters –
 - (a) classes of members other than ordinary members;
 - (b) the duty of a member to inform the Society if he or she ceases to be or is suspended from practice as an advocate or solicitor, or ceases to practise as an advocate or solicitor;
 - (c) the setting of annual subscriptions to be paid to the Society by classes of members;
 - (d) the setting of levies to be paid to the Society by ordinary members;

- (e) the suspension from membership of an ordinary member while any money is due by the member to the Society under this Law;
- (f) the termination and suspension of the membership of persons who are not ordinary members; and
- (g) the service of documents on members by any means other than personal service and the conclusiveness or otherwise of any such means of service as proof that it has been effected,

and must provide that ordinary members shall be required to maintain adequate insurance cover, in amounts to be determined by or under the bye-laws according to the nature of their practices, against professional liabilities arising from practice.

- (3) In relation to general meetings of the Law Society and the meetings of the Committee, the bye-laws may provide for the following matters –
 - (a) when they are to be held, the ways in which they shall be convened, business that is to be transacted and notice that is to be given to members;
 - (b) quorums, and the persons who shall preside;
 - (c) proxy voting, by persons who are entitled to vote;
 - (d) in the case of an equality of votes, the decision of a question by the casting vote of the person presiding, or by lot;
 - (e) the methods of voting to be used, and the recording and counting of votes (including the conclusiveness of a count); and
 - (f) generally, the regulation of the procedures to be followed.
- (4) In relation to the Committee, the bye-laws may provide for the following matters –
 - (a) the number of Committee members to whom Article 10(2)(e) refers;
 - (b) the classes of members (other than ordinary members) who are eligible to be Committee members;
 - (c) longer terms of office of Committee members than those specified in Article 11(2);
 - (d) the continuance of Committee members in office (notwithstanding the expiry of their terms) until their successors take up office;
 - (e) circumstances in which Committee members are or are not eligible for re-election;
 - (f) the manner in which candidates for election as Committee members shall be nominated;
 - (g) the co-opting by the Committee of other persons as Committee members;
 - (h) the appointment by the Committee of subcommittees, and the delegation by the Committee of functions and powers to them;
 - (i) duties of the Committee, Committee members and members of subcommittees; and
 - (j) generally, the regulation of the way in which the Committee is to administer the affairs of the Law Society.

- (5) In relation to the disciplinary control of practitioners, the bye-laws may provide for the following matters –
 - (a) the prescription or adoption of any code or rules of professional conduct or etiquette; and
 - (b) the issuing by the Committee of directives in writing that relate to the professional conduct of practitioners and are binding on them.
- (6) The bye-laws may also provide –
 - (a) for any other matter for which an Article provides that bye-laws may be made; and
 - (b) for any other matters that are reasonably necessary for or incidental to the purposes of this Law.
- (7) The bye-laws shall bind each member of the Law Society.
- (8) This Article is subject to Article 17.

17 Manner of making bye-laws

- (1) The powers of the Law Society under Article 16 shall be exercisable only by special resolution –
 - (a) at an annual general meeting; or
 - (b) at a general meeting that has been convened specially for the purpose.
- (2) No bye-law shall have effect unless and until it is approved by the Royal Court.

PART 3

DISCIPLINE

18 The disciplinary panel of the Law Society

- (1) There shall be a disciplinary panel consisting of –
 - (a) 7 fit and proper persons, as lay members of the panel; and
 - (b) 4 ordinary members of the Law Society.
- (2) The lay members of the disciplinary panel shall be appointed by the States on the recommendation of the Jersey Appointments Commission established with the approval of the Act of the States dated 28th May 2002, after consultation by that Commission with the Law Society.
- (3) A person shall be eligible for appointment to the disciplinary panel as a lay member if, but only if, he or she –
 - (a) is not an advocate or solicitor; and
 - (b) is not admitted in any other jurisdiction as a legal practitioner.
- (4) The members of the disciplinary panel who are ordinary members of the Law Society shall be appointed by the Society in general meeting.

- (5) An ordinary member of the Society shall be eligible for appointment to the disciplinary panel if, but only if, he or she –
 - (a) is in private practice; and
 - (b) is a practitioner of at least 10 years' standing.
- (6) However, Committee members, the Bâtonnier and the President of the Chambre des Ecrivains shall not be eligible for appointment to the disciplinary panel.

19 Tenure of members of disciplinary panel

- (1) A member of the disciplinary panel shall hold office for a term of 5 years to be specified in the member's appointment.
- (2) The member shall not be eligible for re-appointment.
- (3) The member may continue in office, after the expiry of his or her term, for the purposes of completing any proceeding that the member has begun to hear.
- (4) However, a member of the disciplinary panel shall in any event cease to hold office –
 - (a) on resigning, by notice in writing delivered to the person or body by whom he or she was appointed;
 - (b) on ceasing (otherwise than by reason of paragraph (2)) to be eligible to hold that office;
 - (c) if he or she is an ordinary member of the Law Society, on being suspended from practice as an advocate or solicitor;
 - (d) on becoming bankrupt;
 - (e) on the appointment of a curator of the member's property and affairs under the Mental Health (Jersey) Law 1969;³
 - (f) on being received into guardianship under the Mental Health (Jersey) Law 1969;⁴ or
 - (g) on being removed from office by the Royal Court, on grounds of misconduct proved to its satisfaction.
- (5) A member of the disciplinary panel shall not be removed from office for any other reason before the expiry of the member's term.

20 Disciplinary committees of the Law Society

- (1) Three members of the disciplinary panel, selected in accordance with Article 21(1), shall constitute a disciplinary committee for the purposes of this Law.
- (2) For the purposes of dealing with a matter under this Law –
 - (a) all 3 members of a disciplinary committee constituted for that purpose shall sit; and
 - (b) its chairman shall preside,but this paragraph is subject to paragraph (4).

- (3) The determination of any question before a disciplinary committee shall be according to the opinion of the majority of its members.
- (4) If –
 - (a) a disciplinary committee has commenced dealing with a matter; and
 - (b) before it determines the matter any member becomes unable to continue to act,

the other members may continue to deal with and determine the matter, as long as their number is not fewer than two (of whom one is an ordinary member of the Law Society and the other is a lay member of the disciplinary panel).

21 Action on receipt of complaints

- (1) If the Law Society receives a complaint alleging that a practitioner is guilty of professional misconduct, the President shall promptly take the following action –
 - (a) if the complaint is not made in writing, the President shall cause it to be stated in writing;
 - (b) the President shall then select from the disciplinary panel a disciplinary committee consisting of 2 persons who are lay members of the disciplinary panel and one person who is an ordinary member of the Society;
 - (c) the President shall name as the chairman of the disciplinary committee one of the lay members so selected;
 - (d) the President shall then refer the complaint to the disciplinary committee; and
 - (e) the President shall also send a copy of the complaint to the Attorney General.
- (2) For the purposes of paragraph (1)(a) –
 - (a) the President may require the complainant to state the complaint in writing; or
 - (b) the President may cause it to be stated in writing on the complainant's behalf,as the President thinks fit, having regard to the complainant's circumstances.
- (3) Notwithstanding paragraph (1), if the President is satisfied that a complaint does not relate to professional misconduct or is vexatious, frivolous or trivial, he or she may refuse to appoint a disciplinary committee and to refer the complaint to it.
- (4) In that event, the President shall promptly inform the complainant and the Attorney General in writing of the decision, stating the reasons for the refusal.

22 Consideration of complaint by a disciplinary committee

- (1) When the President refers a complaint to a disciplinary committee, it shall consider the matter promptly in accordance with this Article.
- (2) The disciplinary committee shall first send written copies of the complaint to the following persons –
 - (a) the practitioner to whom it relates;
 - (b) the Bâtonnier, if the complaint relates to an advocate; and
 - (c) the President of the Chambre des Ecrivains, if the complaint relates to a solicitor.
- (3) The disciplinary committee shall sit privately.
- (4) The disciplinary committee shall give the complainant and the practitioner an opportunity to be heard, to call evidence and to cross-examine witnesses.
- (5) The disciplinary committee shall also give the following persons an opportunity to be heard –
 - (a) the Bâtonnier, if the practitioner is an advocate;
 - (b) the President of the Chambre des Ecrivains, if the practitioner is a solicitor; and
 - (c) the Attorney General.
- (6) With the consent of the complainant and the practitioner, the disciplinary committee may at any time before the complaint is determined refer the matter to a mediator appointed by it.

23 Determination of complaint by a disciplinary committee

- (1) Subject to Article 22(6), the disciplinary committee shall on hearing a complaint deal with the matter in one of the following ways, as it thinks fit –
 - (a) by dismissing it;
 - (b) if it is satisfied that the complaint is proved and that it constitutes professional misconduct by the practitioner, but that it can properly be dealt with either by way of a public reprimand or a private rebuke, by so reprimanding or rebuking the practitioner; or
 - (c) by referring the complaint to the Attorney General without making a finding.
- (2) The disciplinary committee shall inform –
 - (a) the complainant, the practitioner, the Attorney General and the Secretary; and
 - (b) the Bâtonnier or the President of the Chambre des Ecrivains, if he or she has been heard on the matter,in writing of its decision and reasons, but except in the case of a public reprimand it shall not publish them in any other way.

- (3) There shall be a right of appeal, in accordance with Article 24, against a decision of the disciplinary committee to which sub-paragraph (a) or sub-paragraph (b) of paragraph (1) refers.

24 Appeals against decision of a disciplinary committee

- (1) The following persons shall have a right of appeal to the Royal Court under this Law –
- (a) a complainant, against a decision by a disciplinary committee either to dismiss the complaint or to deal with it either by publicly reprimanding or privately rebuking the practitioner to whom it relates;
 - (b) the Attorney General, against a decision to which sub-paragraph (a) refers; and
 - (c) a practitioner against whom a complaint is made, against a decision by a disciplinary committee to publicly reprimand or privately rebuke the practitioner.
- (2) The appeal shall be lodged within one month after the disciplinary committee complies with Article 23(2), or within such further time as the Royal Court may allow.
- (3) On hearing the appeal, the Royal Court –
- (a) may confirm or reverse the decision of the disciplinary committee; and
 - (b) make any order as to the costs of the proceedings before the Royal Court that it thinks fit.
- (4) If the Royal Court –
- (a) reverses a decision by a disciplinary committee dismissing a complaint; and
 - (b) although satisfied that the complaint is proved and that it constitutes professional misconduct by the practitioner to whom it relates, nevertheless considers that a private rebuke or a public reprimand is an adequate sanction,
- it may impose such a sanction on the practitioner to whom the complaint relates.
- (5) If the Royal Court –
- (a) reverses a decision by a disciplinary committee dismissing a complaint; or
 - (b) confirms a finding by a disciplinary committee that a complaint is proved and, being satisfied that it constitutes professional misconduct by the practitioner to whom it relates, considers that a neither a private rebuke nor a public reprimand is an adequate sanction,

the Royal Court may deal with the matter in such of the ways specified in paragraphs (8) and (9) of Article 26 as it thinks fit.

- (6) The practitioner and the Attorney General, but not the complainant, shall have a right of appeal to the Court of Appeal against a decision or order of the Royal Court under this Article.

25 Reference of complaint by Attorney General to Royal Court

The Attorney General may refer to the Royal Court –

- (a) a complaint which the President has refused to refer to a disciplinary committee, pursuant to Article 21(3); or
- (b) a complaint referred to the Attorney General under Article 23(1) by a disciplinary committee.

26 Consideration of complaint by Royal Court on Attorney General's reference

- (1) If the Attorney General refers a complaint to the Royal Court, it shall hold a hearing.
- (2) At the hearing, the Attorney General shall present the complaint to the Royal Court.
- (3) The Royal Court shall give the Attorney General and the practitioner an opportunity to be heard, to call evidence and to cross-examine witnesses.
- (4) The complainant shall be entitled to be present.
- (5) With the consent of the complainant and the practitioner, the Royal Court may at any time before the complaint is determined refer the matter to a mediator appointed by it.
- (6) Subject to paragraph (5), the Royal Court shall on hearing the matter decide whether or not the complaint is proved.
- (7) If the Royal Court is not satisfied –
- (a) that the complaint is proved; and
- (b) that it constitutes professional misconduct by the practitioner,
- it shall dismiss the complaint.
- (8) If the Royal Court is satisfied that the complaint is proved, and that it constitutes professional misconduct by the practitioner, it may deal with the matter in one of the following ways, as it thinks fit –
- (a) by privately rebuking the practitioner;
- (b) by reprimanding him or her publicly;
- (c) by imposing a fine on the practitioner;
- (d) by suspending him or her from practice as an advocate or solicitor for a specified period not exceeding 6 months; or
- (e) by ordering that the name of the practitioner be removed from the roll of advocates or solicitors, as the case may be.
- (9) The Royal Court may make any order as to the costs of the proceedings before the Royal Court that it thinks fit.

- (10) The practitioner and the Attorney General, but not the complainant, shall have a right of appeal to the Court of Appeal against a decision or order of the Royal Court under this Article.

27 Investigation of complaints

- (1) For the purposes of investigating a complaint against a practitioner –
- (a) the Committee of The Law Society may require the practitioner or a member of his or her firm to produce or deliver to it any relevant documents in the practitioner's custody or control; and
 - (b) the Committee may retain possession of those documents until its investigation and any disciplinary proceedings that arise from the investigation are completed.
- (2) A person who, without lawful excuse, fails to comply with a requirement made by the Committee under paragraph (1) shall be guilty of an offence and liable to a fine.
- (3) This Article does not limit –
- (a) a right to decline to produce or deliver a document, to the Committee, on the ground of legal professional privilege; or
 - (b) the rule against self-incrimination.
- (4) The Committee shall not use a document obtained by it under this Article, or any information obtained by the Committee in consequence of its production or delivery under this Article, for any purpose except –
- (a) the investigation of the complaint; or
 - (b) the purposes of any disciplinary or criminal proceedings that arise from the complaint.

28 Powers of disciplinary committees to take evidence

- (1) A disciplinary committee may, by notice in writing signed by the person presiding, require a person –
- (a) to attend and give evidence before it in a matter on which it is proceeding; and
 - (b) to produce to it any documents in the person's custody or control that relate to the subject matter of the proceedings.
- (2) A disciplinary committee may require a person to give evidence on oath or under affirmation, and for that purpose any member of the disciplinary committee may administer an oath or take an affirmation.
- (3) A person who, without lawful excuse –
- (a) fails to comply with a requirement made by a disciplinary committee under paragraph (1); or
 - (b) on being required to do so under paragraph (2), refuses to take an oath or make an affirmation, or to give evidence,

shall be guilty of an offence and liable to imprisonment for a term not exceeding 3 months, or to a fine not exceeding level 2 on the standard scale,⁵ or both.

- (4) A person giving evidence (on oath or otherwise), or appearing before a disciplinary committee, shall have the same privileges and immunities as if he or she were giving evidence in or appearing before a court of law.
- (5) A person who is required to attend and give evidence before a disciplinary committee, or to produce or deliver a document to it, shall be reimbursed by the Law Society for his or her reasonable expenses (including loss of earnings) in doing so.

29 Recovery of fines and costs

Any fine that is imposed on a practitioner under Article 24(5) or Article 26(8), or costs that are awarded to the Attorney General under this Part, shall constitute a debt due and payable to the States, and shall be enforceable by the Treasurer of the States in the same manner as an order for the payment of costs made by the Royal Court in a civil case.

30 Prohibition of employment of practitioners removed from roll for misconduct, or suspended

- (1) No practitioner shall in connection with his or her practice employ, retain or remunerate –
 - (a) a person whose name has been removed from the roll of advocates or solicitors, on grounds of misconduct, and has not been restored to that roll; or
 - (b) a practitioner who is suspended from practice as an advocate or solicitor,without the prior approval of the Committee and in accordance with such conditions (if any) as it may specify in giving its approval.
- (2) Before it gives any approval under this Article, the Committee shall consult the Attorney General.
- (3) A practitioner who contravenes paragraph (1) shall be guilty of professional misconduct.

31 Protection of persons acting in good faith

No person shall incur criminal or civil liability in respect of any act or omission by the person in the exercise or intended exercise of any disciplinary function conferred on him or her by or under this Part unless it is proved that the act or omission was in bad faith.

32 Inherent jurisdiction of Royal Court

Nothing in this Law limits the inherent jurisdiction of the Royal Court to exercise disciplinary control over practitioners.

PART 4
OTHER PROVISIONS

33 Election of the Bâtonnier

The ordinary members who are advocates shall elect every 3 years one of their number as the Bâtonnier, to be their head and to oversee the interests of the Bar.

34 Rules of Court

The power to make Rules of Court under the Royal Court (Jersey) Law 1948⁶ shall include a power, subject to the other provisions of this Law, to make rules regulating and prescribing the procedures to be followed –

- (a) by disciplinary committees;
- (b) on references to the Royal Court by the Attorney General; and
- (c) on appeals to the Royal Court against decisions of disciplinary committees.

35 Availability of bye-laws

- (1) Article 3(1) of the Official Publications (Jersey) Law 1960⁷ shall apply to bye-laws as it applies to enactments mentioned in that paragraph and accordingly, as soon as may be after such bye-laws are made, the Secretary shall transmit a certified copy of them to the Greffier of the States.
- (2) A person may purchase a copy of the bye-laws on payment of a reasonable fee to be fixed by the Committee.

36 Repeals

The following enactments shall be repealed –

- (a) Article 6 of the Loi (1961) sur l'exercice de la profession de droit à Jersey;⁸
- (b) Article 10 of the Advocates and Solicitors (Jersey) Law 1997, and the Second Schedule and paragraph 7 of the Third Schedule to that Law.⁹

37 Transitional provisions

- (1) The persons who constitute the Committee of The Law Society of Jersey immediately before the commencement of this Law shall continue to constitute the Committee as its members, subject to Article 12, until the Law Society first elects Committee members under Article 11.
- (2) Until the Law Society at a general meeting appoints members of the disciplinary panel under Article 18(4), the power of appointment of those members under that paragraph shall be exercised by the Committee.

- (3) Notwithstanding Article 19(1), but subject to the other provisions of that Article, a person appointed under paragraph (2) of this Article to be a member of the disciplinary panel shall only hold office until the Law Society exercises its power to make that appointment.
- (4) Notwithstanding the repeal of Article 10 and the Second Schedule of the Advocates and Solicitors (Jersey) Law 1997¹⁰ by Article 36 of this Law, if a complaint or other matter under Article 10 of that Law¹¹ is pending but has not been determined before the commencement of this Law, it shall be determined as if this Law had not been enacted.

38 Citation and commencement

- (1) This Law may be cited as The Law Society of Jersey Law 2005.
- (2) Except as provided in paragraph (3), this Law shall come into force on such date as the States may by Act appoint.
- (3) Paragraphs (2) and (3) of Article 3 shall come into force on the expiry of the period of 3 months following the date appointed by the States under paragraph (2) of this Article.

A.H. HARRIS

Deputy Greffier of the States.

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- ¹ *Volume 1968-1969, page 345, Volume 1970-1972, page 59, Volume 1994-1995, page 119, Volume 2001, page 298 and R&O 5838.*
- ² *Volume 1968-1969, page 345, Volume 1970-1972, page 59, Volume 1994-1995, page 119, Volume 2001, page 298 and R&O 5838.*
- ³ *Volume 1968-1969, page 345, Volume 1970-1972, page 59, Volume 1994-1995, page 119, Volume 2001, page 298 and R&O 5838.*
- ⁴ *Volume 1968-1969, page 345, Volume 1970-1972, page 59, Volume 1994-1995, page 119, Volume 2001, page 298 and R&O 5838.*
- ⁵ *Volume 1992-1993, page 437.*
- ⁶ *Tome VII, page 502, Volume 1979-1981, page 195, Volume 1984-1985, page 175, Volume 1990-1991, pages 193 and 855, Volume 1992-1993, page 461, Volume 1996-1997, pages 147 and 667, Volume 1998, page 659 and Volume 2001, page 7.*
- ⁷ *Tome VIII, page 884 and Volume 2003, page 186.*
- ⁸ *Volume 1961-1962, page 441.*
- ⁹ *Volume 1996-1997, pages 578, 581 and 584.*
- ¹⁰ *Volume 1996-1997, pages 578 and 581.*
- ¹¹ *Volume 1996-1997, page 578.*