

# STATES OF JERSEY



## DRAFT THE LAW SOCIETY OF JERSEY (AMENDMENT No. 2) LAW 201-

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Lodged au Greffe on 25th February 2010  
by the Chief Minister

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STATES GREFFE





Jersey

## **DRAFT THE LAW SOCIETY OF JERSEY (AMENDMENT No. 2) LAW 201-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Chief Minister has made the following statement –

In the view of the Chief Minister the provisions of the Draft The Law Society of Jersey (Amendment No. 2) Law 201- are compatible with the Convention Rights.

(Signed) **Senator T.A. Le Sueur**

## REPORT

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The Law Society of Jersey Law 2005 came into force on the 1st January 2007, and the proposed amendment affects Part 3 of the Law that provides for the procedures to be followed in matters of discipline against members of the Jersey Law Society.

A Disciplinary Panel was first established during 2007. The first disciplinary committees were appointed to hear specific complaints in December 2007, following the approval and formal adoption of procedural Rules. Each committee consists of 3 Panel members, 2 of the members being lay members with the third member being a member of the legal profession. One of the lay members is appointed as Chairman. The lay members are appointments of the States on the recommendation of the Jersey Appointments Commission, with ordinary members of the Law Society being appointed to the Panel by the Law Society in general meeting.

As at the date of lodging of this *projet*, there were 243 Advocates and 39 Écrivains (Solicitors) of the Royal Court.

In 2008, a total of 8 complaints were heard.

Most cases were heard within a single day but the preparation time required to determine whether cases had merit became protracted and in some cases added considerably to the time required to be contributed by the members of the committees; both lay members and members of the profession. Whilst this did not generally do anything other than delay the hearings, it did place substantial pressure on the Law Society members of the Panel, who are also relied upon to produce the draft written adjudications. The lay members of the Panel are particularly indebted to the professional members without whose expertise the task of examining evidence and preparing adjudications would be considerably more difficult. Their guidance to lay committee members, both before and during hearings has been invaluable and this has most certainly aided in the efficient dispatch of complaints. The lay members work efficiently and move from one case to the next in order to process complaints within a reasonable timeframe.

At the beginning of 2009, 8 complaints awaited hearings, Panels having been, or about to be, appointed. Some of these cases were awaiting further information in order to proceed.

In order to add to the efficiency of the process, it is recommended that the Panel membership be increased, not only to enable more complaints to be dealt with at any one time, but to allow for conflicts of interests or the unavailability of members due to work pressures or personal commitments.

The opportunity is also being taken to allow the Chief Minister, by Order, to vary these numbers, as the profession grows or other eventualities arise.

There is no change to the balance between lay members and lawyers, and this Order-making power would not affect this.

Disciplinary Panel members receive no reward for their services.

### **Financial and manpower statement**

There are no financial or manpower implications for the States arising from the adoption of this draft Law.

### **European Convention on Human Rights**

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 24th February 2010 the Chief Minister made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Chief Minister the provisions of the Draft The Law Society of Jersey (Amendment No. 2) Law 201- are compatible with the Convention Rights.

## **Explanatory Note**

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This Law increases the professional membership, and introduces flexibility in the lay and professional membership, of the disciplinary panel of the Law Society of Jersey.

The number of lay members of the disciplinary panel is currently set at 7. Potential to increase this membership is created by requiring the number to be not less than 7 and more than 15.

The number of members of the disciplinary panel who must be members of the Law Society is currently set at 4. This membership is increased and required to be not less than 7 and not more than 10.

The Committee of the Law Society will determine the exact numbers of lay and professional members, within the ranges specified.

The opportunity is also taken to empower the Chief Minister to amend the numbers of lay and professional members by Order made after consultation with the Committee of the Law Society.



Jersey

## **DRAFT THE LAW SOCIETY OF JERSEY (AMENDMENT No. 2) LAW 201-**

**A LAW** to amend further The Law Society of Jersey Law 2005.

*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

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

### **1 Article 18 of The Law Society of Jersey Law 2005 amended**

In Article 18 of The Law Society of Jersey Law 2005<sup>1</sup> for paragraph (1) there shall be substituted the following paragraphs –

“(1) There shall be a disciplinary panel consisting of –

- (a) not less than 7 and not more than 15 fit and proper persons, as lay members of the panel; and
- (b) not less than 7 and not more than 10 ordinary members of the Law Society.

(1A) The Chief Minister may by Order, after consultation with the Committee, amend paragraph (1) so as to specify the numbers, or minimum and maximum numbers, of lay persons and ordinary members of the Law Society required to constitute the disciplinary panel.

(1B) Where there is specified in paragraph (1) a minimum and maximum number of lay persons or ordinary members of the Law Society required to constitute the disciplinary panel, the Committee shall determine the exact number of persons of that description required, within the range specified.”.

**2 Citation and commencement**

This Law may be cited as The Law Society of Jersey (Amendment No. 2) Law 201- and shall come into force 7 days after it is registered.



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<sup>1</sup> *chapter 07.570*