

# STATES OF JERSEY



## **DRAFT ARCHITECTS (REGISTRATION) (AMENDMENT No. 2) (JERSEY) LAW 201-**

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**Lodged au Greffe on 15th April 2011  
by the Minister for Economic Development**

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**STATES GREFFE**





Jersey

## **DRAFT ARCHITECTS (REGISTRATION) (AMENDMENT No. 2) (JERSEY) LAW 201-**

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

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

In the view of the Minister for Economic Development the provisions of the Draft Architects (Registration) (Amendment No. 2) (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Senator A.J.H. Maclean**

## REPORT

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### REASONS FOR BRINGING FORWARD THE AMENDMENT

A person cannot practise or carry on business in Jersey using the title “architect” unless registered under the Architects (Registration) (Jersey) Law 1954. In order to be registered under that Law, a person must be registered under the equivalent legislation in the United Kingdom. At the time the Architects (Registration) (Jersey) Law 1954 was enacted, registration in the United Kingdom was under the Architects (Registration) Act 1931, and the 1954 Law expressly requires an applicant for registration in Jersey to be registered under the 1931 Act.

That requirement is now obsolete. The Architects (Registration) Act 1931 has been repealed in the United Kingdom and replaced by the Architects Act 1997. As a consequence, the Royal Court is currently unable to add names to the Register of Architects in Jersey.

When the Architects (Registration) (Jersey) Law 1954 was passed by the States, Article 1 carried definitions associated with the Architects (Registration) Act 1931.

The process for registration of architects in Jersey is now deficient as the Architects (Registration) (Jersey) Law 1954 provides that a person may be registered in Jersey **if and only if** the person is registered under the Architects (Registration) Act 1931 of the UK which was repealed in 1997, having been replaced by the Architects Act 1997.

**As a consequence, the Royal Court is not currently in a position to register architects in Jersey.**

### WHAT THE AMENDMENTS DO

The draft Law sets out to update the architects’ registration process in Jersey by –

***Moving the criteria for registration as an architect in Jersey from the face of the Law and, upon its commencement, prescribing them by Order of the Minister:***

Having the qualifying criteria in an Order makes it easier and quicker to change the Jersey legislation to reflect a change in England.

***Validating the registration of architects registered since 1997:***

On the understanding that they were registered originally, because they are also registered under the 1997 UK Act.

***Taking the opportunity to update the penalties for offences under the Law:***

These have been upgraded, effectively from a fine of up to £500 plus £50 for each day that the offence continues, to a fine of up to level 4 on the standard scale (£5,000).

***Enabling a person’s name to be removed from the registered list:***

Either at the person’s request or upon the person’s death.

*Introducing a requirement for an architect to inform the Judicial Greffier if they change name or address or if their UK registration is cancelled.*

*Repealing a provision empowering the Court to require an applicant who is an alien to produce a certificate of good character.*

### **Financial and manpower implications**

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 11th April 2011 the Minister for Economic Development made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Economic Development the provisions of the Draft Architects (Registration) (Amendment No. 2) (Jersey) Law 201- are compatible with the Convention Rights.

## Explanatory Note

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This Law amends the Architects (Registration) (Jersey) Law 1954 (the “principal Law”).

The principal purpose of the amendment is to take into account the repeal, in the United Kingdom, of the Architects (Registration) Act 1931 and its replacement by the Architects Act 1997. The opportunity is taken to make other small changes to the 1954 Law.

*Article 1* defines the principal Law.

*Article 2* amends Article 1 of the principal Law, removing from it definitions associated with the now repealed Architects (Registration) Act 1931 and adding a definition “Minister”, for the purposes of the Order-making power conferred by Article 4.

*Article 3* amends Article 2 of the principal Law. Article 2 of the principal Law already makes it an offence for a person to carry on business using the name or title of architect unless the person is registered as an architect in Jersey. The amendment increases the penalty for the offence –

- from a fine of up to £500 plus £50 for each day that the offence continues
- to a fine of up to level 4 on the standard scale (£5,000).

*Article 4* substitutes Article 3 of the principal Law. Article 3 of the principal Law currently provides that, in order to be registered as an architect in Jersey, a person must be registered as an architect under the Architects (Registration) Act 1931. The substituted Article provides that, in order to be registered as an architect in Jersey, a person must fulfil such requirements as are prescribed by Order of the Minister.

*Article 5* inserts a new Article 3A in the principal Law. Under the principal Law, the Judicial Greffier keeps, and displays in the lobby of the Royal Court House, a list of registered architects, showing their names and addresses. However, there is no obligation for an architect to inform the Judicial Greffier when he or she changes name or address. Article 3A adds that obligation, as a mandatory condition of registration. Article 3A further creates an obligation for a registered architect to inform the Judicial Greffier if the architect ceases to fulfil the requirements for registration prescribed under the substituted Article 3 – for example, if the architect’s registration in the United Kingdom is cancelled. The Royal Court, in considering under Article 4 of the principal Law whether an architect’s conduct is such that he or she should not be entitled to practise in Jersey, may have regard to any failure to comply with a condition imposed by Article 3A.

*Article 6* substitutes Article 5 of the principal Law. Currently, Article 5 requires the Royal Court to cancel a person’s registration where the person ceases to be registered under the now repealed Architects (Registration) Act 1931. The substituted Article 5 now provides that the Royal Court is to cancel a person’s registration if the person ceases to fulfil the prescribed requirements for registration. As before, the Court also has power to restore a person’s registration if the qualification or registration elsewhere on which the person’s registration in Jersey depended is reinstated.

*Article 7* amends Article 6 of the principal Law. Article 6 requires the Judicial Greffier to maintain the list of registered architects. The list must show, for each architect, the qualification or authority to practise that entitled the architect to be registered in Jersey. Further, the Judicial Greffier must alter the list to reflect a change in a registered architect's name or address and remove a registered architect's name from the list if that person requests the cancellation of his or her registration or if the Judicial Greffier is satisfied that the person has died.

*Article 8* increases the penalty for an offence under Article 7 of the principal Law. The offence is obtaining registration by fraudulent means and the penalty is, currently, a maximum of a fine of £1,000 and imprisonment for one year. The amendment would increase the maximum penalty to an unlimited fine and imprisonment for 2 years, in line with penalties for other offences in Jersey law that involve deception.

*Article 9* inserts Article 8A in the principal Law. After the Architects (Registration) Act 1931 was repealed, some architects were registered under the principal Law, in good faith, in reliance on their registration under the Architects Act 1997. Registrations ceased once it became known that the 1931 Act had been repealed. The purpose of this Article is to validate the flawed registrations, so that the individuals affected do not have to re-register and are protected from any liability that might otherwise arise by reason of the flaw.

*Article 10* provides for the citation and commencement of the Law.







Jersey

## **DRAFT ARCHITECTS (REGISTRATION) (AMENDMENT No. 2) (JERSEY) LAW 201-**

### **Arrangement**

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#### **Article**

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Jersey

## **DRAFT ARCHITECTS (REGISTRATION) (AMENDMENT No. 2) (JERSEY) LAW 201-**

**A LAW** to amend further the Architects (Registration) (Jersey) Law 1954

*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 Interpretation**

In this Law “principal Law” means the Architects (Registration) (Jersey) Law 1954<sup>1</sup>.

### **2 Article 1 substituted**

For Article 1 of the principal Law there shall be substituted the following Article –

#### **“1 Interpretation**

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

‘Court’ means the Royal Court;

‘Minister’ means the Minister for Economic Development;

‘registered person’ means a person registered as an architect in pursuance of this Law;

(2) A person shall not, for the purposes of this Law, be treated as not practising by reason only that the person is in the employment of another person.”

**3 Article 2 amended**

In Article 2 of the principal Law for paragraph (2) there shall be substituted the following paragraph –

- “(2) A person who contravenes paragraph (1) shall be guilty of an offence and liable to a fine of level 4 on the standard scale.”

**4 Article 3 substituted**

For Article 3 of the principal Law there shall be substituted the following Article –

**“3 Registration**

- (1) No person shall be entitled to be registered as an architect in pursuance of this Law unless the person fulfils the requirements for registration prescribed by Order of the Minister.
- (2) An application for registration as an architect in pursuance of this Law shall be made to the Court and shall contain such particulars and shall be accompanied by such proof, as may be prescribed by Order of the Minister, that the person fulfils the requirements for registration prescribed under paragraph (1).
- (3) The prescribed requirements by virtue of which a person is registered as an architect in pursuance of this Law shall be set out in the act of the Court ordering the registration.
- (4) An Order made under paragraph (1) or (2) may make such transitional provision and savings as the Minister thinks fit.”

**5 Article 3A inserted**

After Article 3 of the principal Law there shall be inserted the following Article –

**“3A Mandatory condition of registration**

- (1) It shall be a condition of a person’s registration as an architect in pursuance of this Law that the person notifies the Judicial Greffier, without delay, of any of the following events –
  - (a) a change in the person’s name or address;
  - (b) the person ceasing to fulfil the requirements for registration prescribed under Article 3(1).
- (2) The Court may, in making a decision in pursuance of Article 4(1) in respect of a person, have regard to any failure of the person to comply with a condition imposed by paragraph (1) of this Article.”

**6 Article 5 substituted**

For Article 5 of the principal Law there shall be substituted the following Articles –

**“5 Requirement to cancel registration**

- (1) The Court, on the motion of the Attorney General, shall order that the registration of any registered person be cancelled where the person ceases to fulfil the requirements for registration prescribed under Article 3(1).
- (2) The Court may, on the application of a person whose registration has been cancelled under paragraph (1), rescind the order made under paragraph (1) and direct that the person’s name be restored to the list, if the Court is satisfied that the qualification or authority to practise by virtue of which the person fulfilled the requirements for registration prescribed under Article 3(1) has been reinstated.”

**7 Article 6 amended**

In Article 6 of the principal Law –

- (a) at the beginning, there shall be inserted the paragraph number “(1)”;
- (b) in paragraph (1), for the words “the qualifications” there shall be substituted the words “the prescribed requirements”;
- (c) after paragraph (1) there shall be added the following paragraphs –
  - “(2) The Judicial Greffier shall, as directed by orders of the Court under this Law, add names to the list, or remove them.
  - (3) The Judicial Greffier shall also –
    - (a) amend an entry in the list for a person, when notified of a change in the person’s name or address; and
    - (b) remove a person’s name from the list –
      - (i) upon receipt of the registered person’s written request that his or her registration is cancelled, or
      - (ii) if satisfied that the person has died.”

**8 Article 7 amended**

In Article 7 of the principal Law for the words commencing “be liable to” to the end of the paragraph there shall be substituted the words “be liable to imprisonment for a term of 2 years and to a fine”.

**9 Article 8A inserted**

After Article 8 of the principal law there shall be inserted the following Article –

**“8A Validation**

- (1) The registration of a person in pursuance of this Law, on or after 21st July 1997 and before the commencement of the Architects (Registration) (Amendment No. 2) (Jersey) Law 201-<sup>2</sup>, shall not be invalid by reason only that, at the time of such registration, the person was not registered in pursuance of the Architects (Registration) Act 1931, if the person was, at that time, registered in pursuance of the Architects Act 1997.
- (2) A person to whom paragraph (1) applies shall not, by reason only of any defect in his or her registration before the commencement of the Architects (Registration) (Amendment No. 2) (Jersey) Law 201-<sup>3</sup>, incur any civil or criminal liability.”.

**10 Citation and commencement**

This Law may be cited as the Architects (Registration) (Amendment No. 2) (Jersey) Law 201- and shall come into force one month after it is registered.

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- <sup>1</sup> *chapter 05.025*  
<sup>2</sup> *P.62/2011*  
<sup>3</sup> *P.62/2011*