

# STATES OF JERSEY



## DRAFT THE LAW SOCIETY OF JERSEY (AMENDMENT No. 3) LAW 201-

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Lodged au Greffe on 12th July 2011  
by the Chief Minister

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STATES GREFFE





Jersey

## **DRAFT THE LAW SOCIETY OF JERSEY (AMENDMENT No. 3) 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. 3) 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 1st January 2007, its role to provide for the administration and disciplinary control of advocates and solicitors of the Royal Court.

Article 18 of the Law makes provision for the Law Society to have a Disciplinary Panel, consisting of 7 lay members and 7 ordinary members of the Law Society. Currently, under Article 19 of the Law, a person appointed to the Disciplinary Panel holds office for a term of 5 years and is not eligible for re-appointment.

This amendment makes provision for members to be eligible for re-appointment.

To put the proposed amendment in context, a costs order was recently made against the Law Society as a result of a disciplinary hearing that was appealed successfully. A decision was subsequently taken by the Society that the Law, and particularly the disciplinary process created under the Law, required a detailed review. Significant reforms are likely to arise from this review, given the shortfalls in the process that led to the cost order being made.

The Law Society is progressing well with the review, but in the meantime the Society is concerned that the Law, as currently drafted, is unnecessarily rigid and damaging to its work.

Currently, 6 of the 7 lay members are due to retire in May 2012 and 4 of the 6 ordinary members are due to retire in March 2012. This means that the Society stands to lose the majority of its members within the space of a few months, as re-appointment is not currently an option under the Law.

Such an amendment to allow for the re-appointment of members, as proposed, is therefore desirable for a number of reasons:

1. The disciplinary process is likely to change dramatically following the review, and it would be preferable for the Panel to remain the same until the changes are introduced. If not, new members would have to learn 2 different processes in fairly quick succession.
2. The existing Disciplinary Panel, while it will have been in office for 5 years in accordance with the Law, has not been active continuously for that period of time, and there is a desire among members to give further active service to the Panel. It has particularly been a significant learning curve for the existing lay members, and they have now built up knowledge and experience which could be put to further use within the disciplinary process.
3. It is hoped that a feature of any amended disciplinary process would be a staggered retirement of the Panel, so that there is an overlap between new and experienced members in order for knowledge to be handed down, rather than having, in effect, to start again every 5 years.

The Chief Minister has consequently brought forward this amendment to the Law to allow those prepared to remain on the Panel to stay for a further period of time. Members have indicated that they would be prepared to remain on the Panel for a further term.

### **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 8th July 2011, 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. 3) Law 201- are compatible with the Convention Rights.

## **Explanatory Note**

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Article 18 of The Law Society of Jersey Law 2005 makes provision for the existence of the disciplinary panel of the Law Society of Jersey. Under Article 19 of that Law a person appointed a member of the disciplinary panel shall hold office for a term of 5 years and currently, under Article 19(2), a member is not eligible for re-appointment to the panel. This Law amends Article 19(2) so that a member of the disciplinary panel is now eligible for re-appointment to the panel.



Jersey

## **DRAFT THE LAW SOCIETY OF JERSEY (AMENDMENT No. 3) 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 19 of The Law Society of Jersey Law amended**

In Article 19 of The Law Society of Jersey Law 2005<sup>1</sup> for paragraph (2) there shall be substituted the following paragraph –

“(2) The member shall be eligible for re-appointment.”.

### **2 Citation and Commencement**

This Law may be cited as The Law Society of Jersey (Amendment No. 3) Law 201- and shall come into force 7 days after it is registered.

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<sup>1</sup>

*chapter 07.570*