

STATES OF JERSEY



DRAFT THE LAW SOCIETY OF JERSEY (AMENDMENT) LAW 200-

Lodged au Greffe on 1st August 2006
by the Chief Minister

STATES GREFFE



Jersey

DRAFT THE LAW SOCIETY OF JERSEY (AMENDMENT) LAW 200-

European Convention on Human Rights

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) Law 200- are compatible with the Convention Rights.

(Signed) **Senator F.H. Walker**

REPORT

The Law Society of Jersey Law 2005 contains a requirement that Jersey advocates and solicitors in practice must join the Society. One consequence is that they may be liable to pay to the Society subscriptions and any levies that it may decide to impose. A second is that they must maintain adequate insurance cover in respect of professional liabilities arising from practice.

Although the Law does not explicitly exclude the Attorney General and the Solicitor General from the requirement, when discharging their public functions they are not considered to be practising as advocates or solicitors.

It is also considered that there are difficulties in applying the requirement to other Jersey advocates and solicitors who are employed in the Law Officers' Department. They carry out their duties on behalf of the Attorney General and the Solicitor General. They are salaried public employees with less freedom of action than private practitioners to participate in the Society's affairs. Moreover, the need for lawyers in private practice to maintain insurance cover for the protection of clients does not arise in the case of such employees.

The draft Law has no financial or manpower implications for the States.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require 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). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 27th July 2006 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) Law 200- are compatible with the Convention Rights.

Explanatory Note

Article 3(2) of The Law Society of Jersey Law 2005 prohibits a person from practising law as an advocate or solicitor of the Royal Court, unless he or she is an ordinary member of the Law Society.

The effect of this amending Law would be to say explicitly that the requirement will not apply to the Law Officers, and to provide that it will not apply either to persons practising law as advocates or solicitors in the course only of their employment in the Law Officers Department.

The amending Law would come into force on the same day as Article 3(2) of the principal Law.



Jersey

DRAFT THE LAW SOCIETY OF JERSEY (AMENDMENT) LAW 200-

A LAW to amend 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 3 amended

After Article 3(3) of The Law Society of Jersey Law 2005¹ there shall be added the following paragraph –

“(4) However, paragraph (2) does not apply to –

- (a) the Attorney General or the Solicitor General;
- (b) a person who is practising law as an advocate or solicitor in the course only of his or her employment in the Law Officers Department.”.

2 Citation and commencement

- (1) This Law may be cited as The Law Society of Jersey (Amendment) Law 200-.
- (2) This Law shall come into force on the same day as Article 3(2) of The Law Society of Jersey Law 2005.

¹

L.9/2005