

## THE GUERNSEY BAR RULES 2010

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THE GUERNSEY BAR, in exercise of the powers conferred by Sections 3 and 4 of The Guernsey Bar (Bailiwick of Guernsey) Law, 2007 with the sanction of the Royal Court and the approval of Her Majesty's Procureur makes the following rules and regulations ("Rules").

### 1. Citation and Commencement

These Rules may be cited as The Guernsey Bar Rules 2010 and shall come into force on the 28<sup>th</sup> January, 2010.

### 2. Interpretation

In these Rules, unless the context otherwise requires:-

"amendment" includes a consolidation, reprint or revision;

"the Bar" means the Guernsey Bar incorporated by the Law;

"Council" means the Bar Council referred to in section 4 (1)(b) of the Law;

"the Code of Conduct" means the Rules of Professional Conduct adopted by resolution of the council of the former association (referred to in Section 1(1) of the Law) on 25 October 1994 including any amendments that have been or are subsequently made to those rules;

"disciplinary body" means the Royal Court or the Chambre de Discipline;

"the Law" means The Guernsey Bar (Bailiwick of Guernsey) Law, 2007;

"the Chambre de Discipline" means La Chambre de Discipline established pursuant to Section 17 of the Law;

references to one gender include references to all genders.

### **3. Classes of members of the Bar**

Members of the Bar shall consist of all advocates whose names are inscribed on the Register of Advocates, who shall, in accordance with rules 4 and 5 be classified as either:-

- (a) practising members; or
- (b) non-practising members.

### **4. Eligibility for practising membership**

A person is eligible to be a practising member if:-

- (a) his name is inscribed on the Register of Advocates; and
- (b) he is not suspended from practice.

### **5. Eligibility for non-practising membership**

A person is eligible to be a non-practising member if:-

- (a) his name is inscribed on the Register of Advocates; and
- (b) he is not in practice as an Advocate and is not suspended from practice.

### **6. Membership**

Each member shall be classified as a practising member unless the Council shall have classified him as a non-practising member.

### **7. Copies of Rules and Code of Conduct**

(1) When a person is admitted as a member after the commencement of these Rules, the Secretary shall send to him:-

- (a) a copy of the Rules; and
- (b) a copy of the Code of Conduct.

- (2) As soon as possible after the amendment of the Rules or the Code of Conduct, the Secretary shall send to each member a copy of the amendment.

**8. Duty of a practising member who ceases to practise**

A practising member who ceases to practise as an Advocate shall inform the Secretary in writing within 14 days.

**9. Suspension of membership rights for non-payment of charges**

- (1) If a member does not pay within one month of demand money that is due by him to the Bar, the Secretary shall notify him by letter.
- (2) If the member does not pay that money within two months of demand, the Secretary shall report the fact to the Council.
- (3) After giving the member a reasonable opportunity to be heard, the Council may then suspend his membership rights whereby he shall not be entitled to speak at or vote at any general meeting of the Bar or be or remain a member of the Council until the money is paid.
- (4) The Secretary shall notify the Bailiff and HM Greffier whenever the membership rights of a member is suspended.

**10. Annual general meetings**

- (1) The annual general meeting of the Bar shall be held in October of each year on a date appointed by the Council.
- (2) At the annual general meeting, the Bar shall transact the following business:-
  - (a) the receipt and consideration of the annual report of the Bâtonnier;
  - (b) the receipt and consideration of the Bar's accounts for the preceding year;
  - (c) the election of the Bâtonnier (when required) and the other members of the Council;

- (d) approving the level of subscriptions for the following year in accordance with Rule 27;
  - (e) setting the amounts for which practising members shall effect insurance cover in accordance with Rule 32.
- (3) The Bar may also transact at an annual general meeting any other business (except a proposal for the winding-up of the Bar) notice of which has been provided in writing to the Secretary by a member not later than the 15<sup>th</sup> day of September that year.

#### **11. Other general meetings**

- (1) The Bâtonnier may at any time convene a general meeting that is not an annual general meeting.
- (2) The Council shall convene a general meeting if it is required to do so by not fewer than 20 practising members, by notice in writing delivered to the Secretary.
- (3) At a general meeting that is convened specially for the purpose of considering amendments to these Rules or the winding up of the Bar, no other business may be transacted.

#### **12. Notice of general meetings**

- (1) The Secretary shall give not less than 10 days notice of a general meeting to the members of the Bar.
- (2) The notice shall include the following information:-
  - (a) the date and time of the meeting;
  - (b) the place at which it will be held;
  - (c) the agenda for the meeting, which shall describe the general nature of each item of business that it is proposed to transact; and
  - (d) in the case of an annual general meeting, copies of:-
    - (i) the annual report of the Bâtonnier; and

- (ii) the Bar's accounts for the preceding year.
- (3) Any accidental omission to give notice to a member shall not invalidate anything done at the meeting.

### **13. Quorum at general meetings**

- (1) At a general meeting:-
  - (a) the practising members who are present personally or by proxy shall be a quorum if they are not fewer in number than 20 per cent of the practising members;
  - (b) if the Bâtonnier is present, he shall preside;
  - (c) in the absence of the Bâtonnier, the Deputy Bâtonnier shall preside; and
  - (d) in the absence of both the Bâtonnier and the Deputy Bâtonnier the practising members who are present in person shall elect one of their number to preside.
- (2) If the quorum is not constituted within 30 minutes after the time appointed for the meeting, it shall stand adjourned to a date, time and place to be determined by the person presiding.
- (3) The person presiding shall appoint a date and time that is not more than 21 days after the adjournment and shall inform the Secretary in sufficient time to enable the latter to comply with paragraph (4) of this Rule.
- (4) The Secretary shall give not less than 7 days' notice to members of the date, time and place to which the meeting is adjourned.
- (5) If the quorum specified in paragraph (1) (a) of this Rule is not present on the resumption of the adjourned meeting, three practising members present personally shall then be a quorum.

### **14. Voting at general meetings**

At general meetings:

- (1) A non-practising member may speak on any motion, unless his membership rights have been suspended for failure to pay any money that is due by him to the Bar, but he may not vote.
- (2) A practising member may speak on any motion and shall have one vote, unless his membership rights have been suspended for failure to pay any money that is due by him to the Bar.
- (3) Each question shall be decided on a show of hands of the practising members present personally, unless:-
  - (a) these Rules provide that it shall be decided by a ballot; or
  - (b) the person presiding, or not fewer than 10 of the practising members present personally, require a ballot.
- (4) On a vote on a show of hands, unless a ballot is promptly demanded by a practising member present personally, a declaration by the person presiding that the result:-
  - (a) has been carried or has been carried by a specified majority, or
  - (b) has not been carried or has not been carried by a specified majority,shall be conclusive evidence of that fact and any entry to that effect by the Secretary in the minute book shall also be conclusive evidence of that fact.
- (5) If, on a vote on a show of hands, a ballot is demanded:-
  - (a) it shall be held in such a manner and at such date, time and place as the person presiding shall direct;
  - (b) for that purpose, the person presiding may adjourn the meeting for any period not exceeding seven days; and
  - (c) on the resumption of the meeting the result of the ballot, as declared by the person then presiding, shall constitute a resolution of the meeting at which the ballot was demanded.

## **15. Casting vote at general meetings**

- (1) In the event of an equality of votes on a question arising at a general meeting, the person presiding shall have a casting vote.
- (2) This Rule is subject to paragraphs (4) and (5) of Rule 22 (which relate to the election of Council members).

## 16. Proxies

- (1) A practising member may in accordance with this Rule appoint another practising member as his proxy:-
  - (a) to attend a general meeting; and
  - (b) to vote on any question that is being decided by a ballot.
- (2) A proxy shall be appointed in writing under the hand of the member making the appointment.
- (3) An instrument of proxy shall be in the following form or in such other form as the Council may approve:-

*“The Guernsey Bar*

*I, [ ] of [ ], being a practising member of The Guernsey Bar, appoint [ ] of [ ] (or, failing him) [ ] of [ ] as my proxy to vote for me on my behalf at a meeting of the Bar to be held on [ ] and at any adjournment of that meeting.*

*Signed*

*Date [ ]”*

- (4) An appointment of a proxy is not valid:-
  - (a) unless the instrument of appointment is lodged with the Secretary at least 24 hours before the time appointed for the holding of the general meeting, or the adjourned general meeting, at which the proxy exercises the proxy vote; or

- (b) if, in the event, the member making the appointment attends the general meeting in person.

## **17. Adjournments**

With the consent of the majority of the practising members present personally, or by proxy the person presiding at a general meeting may adjourn it to any subsequent date, time or place.

## **18. The Bar Council**

The Bar Council is established to discharge the following functions:-

- (1) To be the governing body of the Bar;
- (2) To implement the objects of the Bar set out in Section 2 of the Law; and
- (3) To recommend to the Bar general policy on matters affecting the Bar.

The Bar Council may in discharging the aforesaid functions exercise the powers of the Bar referred to in Section 1 (3) of the Law (save that prior consent of the Bar is required before exercise of any of the powers set out in points 1 (f), (g) and (h) in the Schedule to the Law).

## **19. Members of the Council**

- (1) In addition to the Bâtonnier, the Council shall consist of eight practising members of the Bar, from whom the Council shall elect one to serve as Deputy Bâtonnier, one to act as Secretary and one to act as Treasurer. The Secretary shall notify the Bailiff and HM Greffier whenever a new Bâtonnier, Deputy Bâtonnier or Secretary is elected.
- (2) At least one member of the Council shall come from a practice comprising, whether in partnership or otherwise, not more than four advocates (plus support staff), unless there is no such practice in existence at the time or no practising member from such a practice is proposed and seconded.

**20. Term of office of Bâtonnier**

- (1) The Bâtonnier shall hold office until the conclusion of the second annual general meeting following the general meeting at which he is elected.
- (2) A person shall not be eligible to serve more than three terms of office as Bâtonnier consecutively.

**21. Terms of Office of Council members**

A Council member, other than the Bâtonnier shall hold office until the conclusion of the next annual general meeting following the general meeting at which he is elected.

**22. Manner of electing Council**

- (1) A candidate for election as a Council member shall be proposed by a practising member and seconded by at least one other practising member.
- (2) A vote on the election of a Council member shall be by ballot.
- (3) A practising member shall be entitled to vote for as many candidates as there are vacancies to be filled.
- (4) If each of the candidates in a ballot receives the same number of votes for a vacancy, the result shall be decided between them by lot.
- (5) If, on any ballot:-
  - (a) two or more candidates for a vacancy receive an equal number of votes;  
and
  - (b) there is another candidate who receives fewer votesanother ballot shall be held between the candidates who received an equal number of votes.

**23. Vacation of Office**

- (1) A Council member shall cease to hold office:-

- (a) on resigning by notice in writing delivered to the Bâtonnier or the Secretary;
  - (b) on ceasing to be eligible to be a Council member;
  - (c) on being suspended from practice as an Advocate;
  - (d) on being declared en désastre or having a guardian appointed to him.
- (2) If a Council member ceases to hold office before the expiry of the member's term, the Council may appoint a practising member to fill the vacancy.
- (3) A person who is appointed to fill such a vacancy shall hold office, subject to the other provisions of these Rules, until the next annual general meeting.

#### **24. Meetings of Council**

- (1) The Council shall meet regularly, not fewer than four times each year, to deal with the affairs of the Bar and may regulate its own procedure subject to the provisions of the Law and these Rules.
- (2) At a meeting of the Council:-
- (a) the Council members who are present personally shall be a quorum if they are a majority of the members for the time being of the Council;
  - (b) if the Bâtonnier is present he shall preside;
  - (c) in the absence of the Bâtonnier, the Deputy Bâtonnier shall preside; and
  - (d) in the absence of both the Bâtonnier and the Deputy Bâtonnier, the Council members who are present personally shall elect one of their number to preside.

#### **25. Casting vote at Council meetings**

In the case of an equality of votes on a question arising at a meeting of the Council, the person presiding shall have a casting vote.

#### **26. Subcommittees**

- (1) The Council may appoint subcommittees consisting of one or more members of the Bar.
- (2) The Council may delegate in writing to a subcommittee any of its functions.
- (3) A delegation under this Rule shall not prevent the Council itself from exercising a function so delegated.
- (4) A delegation under this Rule shall be revocable at will.
- (5) In the exercise of its functions a subcommittee:-
  - (a) shall comply with any directions given to it by the Council; and
  - (b) shall report regularly to the Council.

**27. Subscriptions and levies**

- (1) The Bar shall in general meeting set annual subscriptions to be paid to the Bar by members.
- (2) In doing so, it may set different subscriptions for different classes of membership.
- (3) If the Bar considers it necessary or expedient to do so, it may in general meeting set a levy to be paid to the Bar by all practising members in equal shares.
- (4) Annual subscriptions and levies set under this Rule shall be due on demand.

**28. Accounts**

The Treasurer shall keep the accounts of the Bar.

**29. Execution of documents**

Two Council members who are authorised by the Council to do so may execute a document in the name of the Bar by affixing their signatures to the document.

**30. Passing of contracts**

A Council member who is authorised by the Council to do so may appear in its name in any court for the purposes of the passing of a contract made by the Bar.

### **31. Minutes**

- (1) The Secretary shall keep a minute book in which he shall cause to be recorded:-
  - (a) the proceedings of the Council; and
  - (b) the proceedings of the Bar at general meetings.
- (2) A subcommittee of the Council shall keep minutes of its proceedings and shall deliver copies of its minutes to the Secretary.

### **32. Insurance cover**

- (1) The Bar shall at each annual general meeting set the amount for which practising members shall maintain insurance cover against their professional liabilities arising from practice.
- (2) In doing so, it may set different amounts for different kinds of practice.
- (3) A practising member shall:-
  - (a) maintain insurance cover for an amount that is not less than the relevant amount so set; and
  - (b) if the Secretary requests him to do so, provide satisfactory evidence of this cover to the Secretary.
- (4) Where a practising member intends to practise on his own account, he shall furnish satisfactory evidence to the Council that he is insured against his professional liabilities arising from practice, for an amount that is not less than the relevant amount for the time being approved by the Bar at a general meeting.

### **33. Code of Conduct**

- (1) A practising member shall observe the Code of Conduct in the conduct of his professional practice.
- (2) A breach of the Code is professional misconduct.

### **34. Service of documents**

- (1) A member shall give to the Secretary the address at which he practises as an Advocate or (if he is not in practice) an address at which documents may be served on or sent to him under the Law.
- (2) A member who is required, under paragraph (1) of this Rule to supply an address to the Secretary shall not be entitled to receive any notice or other document under the Law unless he has complied with that paragraph.
- (3) If any notice or other document is to be served on or delivered or given under the Law to any members, it shall be sufficient for the Secretary to prove that it was either:-
  - (a) addressed to him at the address given by him under paragraph (1) of this Rule duly stamped and posted to him and in that event it shall be presumed conclusively that he received the notice or document two days after it was posted; or
  - (b) sent to him by electronic means at his email address given by him to the Secretary.
- (4) Paragraph (3) of this Rule does not prevent personal service.

### **35. Indemnity**

- (1) All offices in the Bar shall be honorary.
- (2) A Council member, a co-opted member of the Council appointed under Rule 23(2) and a member of a subcommittee shall be indemnified by the Bar against all costs, expenses and losses for which he may become liable by reason of any act or thing done by him in the proper discharge of his office or duties.
- (3) In this Rule, "office" includes any membership of the Council or of a subcommittee.

**APPROVED** by the Royal Court on the                      day of                      2010.