

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4,167 of 7th May, 2015

B. 19/15

BILL

FOR

AN ACT to amend the Supreme Court Act.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Supreme Court (Amendment) Act 2015 and comes into operation on the 1st July 2015.

Amendment of the Supreme Court Act.

2.(1) The Supreme Court Act is amended in accordance with this section.

(2) In Part IV before section 28 insert-

“Interpretation of Part IV

27W.(1) The following definitions apply for the purposes of this Part.

(2) Completion of an “approved academic course in Gibraltar Law” means attending and passing the examinations and assessments included in a course in Gibraltar law which-

(a) is taught and examined at an approved institution;

(b) is taught over the course of one full academic year and consists of a minimum of 48 hours’ tuition; and

(c) covers such areas of Gibraltar law as the Minister with responsibility for justice, in consultation with the Chief Justice, deems appropriate.

(3) An “approved establishment” means a set of barristers’ chambers or a solicitor’s office approved by the Chief Justice as an establishment where the practical training requirement may be undertaken.

(4) An “approved institution” means the University of Gibraltar or such other institution as the Minister with responsibility for justice, in consultation with the Chief Justice, designates.

(5) “Legal services” means the giving of legal advice and the preparation of documents having, or intended to have, legal effect.

(6) The “practical training requirement” means a period of no less than 12 months’ employment at an approved establishment during which time training is undertaken in at least three of the following areas of practice-

(a) Commercial Law;

(b) Property Law;

(c) Litigation;

(d) Private Client.

(7) The training undertaken in each area of practice in accordance with subsection (6) shall be for a period of not less than three months.

(8) A “professional skills course” means a course undertaken at an approved institution in such form and covering such subjects and skills as shall be specified by the Minister with responsibility for justice in consultation with the Chief Justice (including Financial and Business Skills, Advocacy and Communication Skills and Client Care and Professional Standards).

(9) In this Part-

- (a) a reference to the examinations and assessments included in any course validated by the Bar Council for call to the Bar of England and Wales by any one of the Inns of Court in England includes the examinations formerly set by the Council of Legal Education for that purpose;
- (b) a reference to the examinations and assessments included in any course validated by the Law Society of England and Wales for admission as a solicitor of the Supreme Court of England and Wales includes the examinations formerly set by the Law Society of England and Wales for that purpose.

Practical training requirement

27X.(1) The Chief Justice may approve an establishment for the purposes of the provision of the practical training requirement only if he is satisfied, following an application by the establishment, that it-

- (a) is a set of barristers' chambers or a solicitor's office providing legal services and engaged predominantly in matters of Gibraltar law;
- (b) is able, in accordance with subsections (6) and (7) of section 27W, to provide adequate training for a period of 12 months in at least three of the following subjects-
 - (i) Commercial Law;
 - (ii) Property Law;
 - (iii) Litigation;
 - (iv) Private Client;
- (c) comprises of at least three barristers or solicitors admitted under this Act of whom-
 - (i) one must be of no fewer than 10 years' standing; and
 - (ii) the other two must be of no fewer than 7 years' standing.

(2) The Chief Justice may issue rules or guidance consisting of such requirements, information and advice as he considers appropriate-

- (a) with respect to the provision by approved establishments of the practical training requirement;
- (b) setting out minimum standards required for the successful completion of the practical training requirement;
- (c) regarding the submission to him of proper records of training, in such form and at such intervals as he deems appropriate, by approved establishments providing the practical training requirement;
- (d) regarding the content and form of applications for approval under subsection (1).

(3) The Chief Justice may in exceptional circumstances approve an establishment for the purposes of the provision of the practical training requirement notwithstanding that such establishment does not satisfy the requirement of paragraph (c) of sub-section (1), and may impose on such establishment so approved such restrictions and conditions as he may think fit.”

(3) In section 28-

(a) for paragraph (c) of subsection (1) substitute-

“(c) since his admission in the United Kingdom or the Republic of Ireland he has completed-

- (i) a period of at least six months’ pupillage with a practising barrister of at least five years professional standing in England, Northern Ireland, the Republic of Ireland or Gibraltar, or a practising advocate of at least five years professional standing in Scotland, or has passed the examinations and assessments included in any course validated by the Bar Council of England and Wales for call to the Bar of England and Wales by any one of the Inns of Court in England

or by an equivalent body in Northern Ireland, the Republic of Ireland or Scotland; and

- (ii) the practical training requirement; and
- (iii) an approved academic course in Gibraltar Law; and
- (iv) the professional skills course; and”;

(b) after subsection 2 insert-

“ (2A) The Chief Justice may admit a person as a barrister under this section, notwithstanding that such person does not satisfy the requirements of paragraphs (c)(ii) and (iv) of subsection (1), where he is satisfied that such person has sufficient experience so as to make the imposition of such requirements unnecessary.”.

(4) In section 29-

(a) for paragraph (a) of subsection (1) substitute-

“(a) he has-

- (i) been admitted as a solicitor of the Supreme Court of Judicature in England, or in any court of record in Northern Ireland or the Republic of Ireland, or as a solicitor admitted to practice in Scotland, or
- (ii) passed the examinations and assessments included in any course validated by the Law Society of England and Wales for admission as a solicitor of the Supreme Court of England and Wales; and”;

(b) after paragraph (b) of subsection (1) insert-

“(ba) since his admission referred to in paragraph (a)(i) or his passing of examinations and assessments referred to in paragraph (a)(ii) he has completed-

- (i) the practical training requirement; and
- (ii) an approved academic course in Gibraltar Law; and

(iii) the professional skills course; and”;

(c) after subsection (1) insert-

“ (1A) The Chief Justice may admit a person as a solicitor under this section, notwithstanding that such person does not satisfy the requirements of paragraphs (ba)(i) and (iii) of subsection (1), where he is satisfied that such person has sufficient experience so as to make the imposition of such requirements unnecessary.”.

(5) For section 34(3)(b) substitute-

“(b) on application refuses to set aside or annul under subsection (2) any such order,

in respect of any barrister or solicitor, that barrister or solicitor may appeal against the decision to the Court of Appeal, but in every other case the decision of the Chief Justice in any proceedings referred to in subsection (1) or subsection (2) shall be final.”.

(6) For section 35 substitute-

“Unqualified person practising.

35.(1) A person not enrolled as a barrister or solicitor in Gibraltar who-

(a) exercises or holds himself out as able to exercise, a right of audience before any court in Gibraltar;

(b) carries on, or holds himself out as able to carry on, any activity which, by or under an enactment, is restricted to barristers or solicitors or both;

(c) provides, or holds himself out as able to provide, for reward, legal services of any description in or from within Gibraltar to members of the public or businesses generally;

is guilty of an offence and is liable on summary conviction to a fine at level 5 on the standard scale.

(2) Notwithstanding anything in any other law or Act contained, proceedings in respect of any offence under this section may be brought at any time within two years next after the commission of the offence or within six months next after the first discovery thereof by the prosecutor whichever period is the shorter.”.

EXPLANATORY MEMORANDUM

This Bill amends the Supreme Court Act so as to set new training requirements for barristers and solicitors who wish to commence practice in Gibraltar after the 1st July 2015.

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