

Subsidiary Legislation made under s.38.

**Supreme Court (Intervention in Solicitors Practice)
Rules 2010**

LN.2010/041

Commencement **23.2.2010**

ARRANGEMENT OF RULES

Rule

1. Title and commencement.
2. Interpretation.
3. Application.
4. Appointment of Authorised Administrator.
5. Authorised Administrator to control the Relevant Practice's Relevant Affairs.
6. Functions of the Authorised Administrator.
7. Powers of the Authorised Administrator.
8. Exercise of Powers.
9. Production of Documents.
10. Costs.
11. Immunity.
12. Termination of Appointment.

1960-02

Supreme Court

**2010/041 Supreme Court (Intervention in Solicitors Practice) Rules
2010**

In exercise of the powers conferred on him pursuant to section 38 of the Supreme Court Act, and of all other enabling powers, the Chief Justice has made the following Rules.

Title and commencement.

1. These Rules may be cited as the Supreme Court (Intervention in Solicitors Practice) Rules 2010 and shall come into operation on the date of publication.

Interpretation.

2.(1) In these Rules, unless the context otherwise requires—

“Authorised Administrator” means a person appointed under rule 4;

“Client” means any client of a Relevant Practice;

“Client Service” means the doing of any act or thing in relation to, or for, the benefit of any Client;

“fit and proper person” means a person who in the Chief Justice’s opinion has the knowledge and expertise to carry out the functions of the Authorised Administrator;

“Relevant Affairs” means all the business and affairs of a Client or relating to Client Services;

“Relevant Event” means the declaration by the Chief Justice in relation to a Relevant Practice that these Rules apply by virtue of—

- (a) the suspension or striking off the roll of any solicitor pursuant to section 34 of the Act,
- (b) a solicitor being adjudged bankrupt,
- (c) a solicitor being committed to prison in any civil or criminal proceedings, or
- (d) undue delay on the part of the personal representatives of a deceased solicitor in connection with that solicitor’s Relevant Practice;

“Relevant Period” means any period of time during which these Rules apply in accordance with rule 3;

“Relevant Practice” means a Solicitors Practice in respect of which the Chief Justice declares these Rules to be applied;

“Relevant Solicitor” means a solicitor whose circumstances or actions have led to the Chief Justice making a declaration that these Rules apply;

“solicitor” includes a barrister who acts as a solicitor pursuant to section 32 of the Supreme Court Act and a registered European lawyer; and

“Solicitors Practice” means any legal practice carried out in Gibraltar by a Relevant Solicitor or by a firm or partnership of which at least one solicitor, who is a Relevant Solicitor, is a member or partner.

(2) The references to a Relevant Solicitor in rules 9 and 10 include, in a case where the solicitor has died, references to his personal representatives.

Application.

3. These Rules shall apply upon the happening of a Relevant Event and or during any period of time that a Relevant Event subsists.

Appointment of Authorised Administrator.

4. Upon the happening of a Relevant Event in relation to a Relevant Practice, and for the duration of a Relevant Period, the Chief Justice may appoint a fit and proper person or persons to be the Authorised Administrator of the Relevant Affairs of that firm.

Authorised Administrator to control the Relevant Practice’s Relevant Affairs.

5. While the appointment of an Authorised Administrator under these Rules remains effective—

- (a) no partner, officer, staff, agent or employee of the firm or practice shall take any action or do anything in relation to its Relevant Affairs or the affairs of any Client or in connection with any Client Service without the consent of the Authorised Administrator;
- (b) every partner, officer, staff, agent and employee of the firm or practice shall do all such acts and things in relation to its Relevant Affairs as may be directed by the Authorised Administrator.

Functions of the Authorised Administrator.

6. The functions of the Authorised Administrator shall, subject to any directions made by the Chief Justice, be to—

- (a) enquire into and safeguard the Relevant Affairs of the Relevant Practice and of its Clients;
- (b) obtain custody of and safeguard the records and assets of the Relevant Practice and of its Clients;
- (c) communicate with Clients of the Relevant Practice for the purposes of—
 - (i) informing them of the circumstances and facts affecting the Relevant Practice, its Clients, that Client and Client Services;
 - (ii) obtaining and receiving instructions from Clients relating to their affairs;
- (d) assist the Chief Justice in the execution of his duties and functions including, but not limited to, providing him with periodic updates and reports; and
- (e) provide assistance, on being directed to do so by the Chief Justice, to any law enforcement authority or other person exercising statutory authority, including any enquiry or investigation.

Powers of the Authorised Administrator.

7. Subject to directions made by the Chief Justice under rule 6, the Authorised Administrator shall have the following powers—

- (a) to take all actions and do all things necessary or desirable for the conduct of the Relevant Affairs of the Relevant Practice;
- (b) to take all actions and do all things necessary to carry out and implement the instructions of any Client, including but not limited to instructions to transfer the business and affairs of a Client to any other solicitors or other entity duly licensed under Gibraltar law;
- (c) to take all actions and do all things (including but not limited to the exercise of the functions and duties of managing partner) in relation to the affairs of any Client of the Relevant Practice or their Client Services, which functions or duties were performed by the Relevant Practice or any partner or employee thereof;

- (d) to sign all documents, papers, authorities, directions, instructions, mandates, cheques or other thing whatsoever necessary, or in the Authorised Administrator's opinion desirable, to give effect to any of his functions or powers, including (but not limited to) conducting Client Services and implement Client instructions;
- (e) to take all actions and do all things necessary to carry out the functions described in rule 6(e) above, including (but without prejudice to the generality of the foregoing) delivering any equipment, records, papers, documents and information of any kind, or copies thereof, appertaining to a Relevant Practice or any Client.

Exercise of Powers.

8. The powers in relation to sums of money and documents conferred by these rules shall be exercisable notwithstanding any lien on them or right to their possession.

Production of Documents.

9. If on an application by the Authorised Administrator the Supreme Court is satisfied that there is reason to suspect documents in relation to a Relevant Practice have come into the possession of some person other than the Relevant Solicitor or the Relevant Practice the court may order that person to produce or deliver the documents to the Authorised Administrator at such time and place as may be specified in the order and authorise him to take possession of them.

Costs.

10. The costs of the Chief Justice and any person exercising powers under these Rules on behalf of the Chief Justice, including but limited to the Authorised Administrator, shall be paid by the Relevant Solicitor and shall be recoverable from him as a civil debt by the Registrar of the Supreme Court.

Immunity.

11.(1) Neither the Authorised Administrator nor his officers, staff or agents, shall be liable in damages for anything done or omitted in the discharge or purported discharge of any powers or functions conferred on the Authorised Administrator by these Rules or any other statute unless the act or omission is shown to have been in bad faith.

(2) For all the purposes of the Act, the Authorised Administrator and his officers, staff and agents shall be deemed to be officers, staff and agents of the Chief Justice.

Termination of Appointment.

1960-02

Supreme Court

2010/041 Supreme Court (Intervention in Solicitors Practice) Rules
2010

12. The appointment of an Authorised Administrator under these Rules shall terminate upon its revocation by the Chief Justice.¹

¹ *In the matter of Marrache & Co, revocation of appointment see LN. 2011=001.*