

STATES OF JERSEY



DRAFT EMPLOYMENT (AMENDMENT No. 8) (JERSEY) LAW 2014 (APPOINTED DAY) ACT 201-

**Lodged au Greffe on 26th January 2015
by the Minister for Social Security**

STATES GREFFE



Jersey

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REPORT

Background

The [Employment \(Amendment No. 8\) \(Jersey\) Law 2014](#) was adopted by the States on 18th July 2014, sanctioned by Order of Her Majesty in Council on 5th November 2014 and registered by the Royal Court on 14th November 2014.

Article 14 provides that the Law shall come into force on such day or days as the States may by Act appoint. It has always been intended that the ‘family-friendly’ rights would come into force on 1st September 2015 in conjunction with protection against discrimination on grounds of sex, pregnancy and maternity. The relevant Regulations are currently being drafted to introduce these protected characteristics into the [Discrimination \(Jersey\) Law 2013](#).

The Employment (Amendment No. 8) (Jersey) Law 2014 also provides a number of other relatively minor changes to the Employment (Jersey) Law 2003 that do not relate to family-friendly rights or rely on protection against sex discrimination. The Minister considers that these improvements should be made sooner, on 1st April 2015.

The Minister has consulted the Jersey Advisory and Conciliation Service, and is satisfied that the relatively short period of notice (5 weeks) of the non-family-friendly related changes should not concern employers or employees because the amendments are primarily minor, and are intended to improve clarity for employers and employees. The Jersey Advisory and Conciliation Service (JACS) will continue to advise the public of the legislative changes and their commencement dates.

The Appointed Day Act will bring the Articles of the Employment (Amendment No. 8) (Jersey) Law 2014 into force on two commencement dates, as described below.

To commence on 1st April 2015 –

Article 1 – The interpretation section.

Article 2 – The Employment Law is amended to define what constitutes an ‘uninterrupted rest period’, and to make provision for the employee to take compensatory rest when a statutory rest period is interrupted. The current absence of a description potentially poses problems for businesses and employees that use call-out and standby arrangements, because it may not

always be clear whether time spent on call or on standby can count as uninterrupted rest.¹

Article 7 – This amendment provides that where an employee has been continuously employed for one week or more but less than 26 weeks, they must give their employer a minimum of one week’s notice when terminating a contract of employment. Currently, if an employee who has been employed for less than 26 weeks wishes to terminate their employment, the Law does not require that they give any notice to their employer. However, JACS strongly advises employers to include a contractual requirement for the employee to give one week’s notice in the terms of employment.

Article 8 – The Law currently provides that the average earnings figure applies when calculating an employee’s entitlement to redundancy pay; however, the States of Jersey Statistics Unit has, in recent years, released 2 different weekly average earnings figures: a ‘mean’ and a ‘median’. To provide certainty for employers and employees, the Law is amended to clarify that the mean average weekly earnings figure applies.

Article 9 – This change clarifies the interaction between statutory redundancy pay and insolvency benefit entitlement. For the purpose of calculating an employee’s redundancy pay entitlement, a redundancy payment is treated as having been paid (and so breaks continuous employment) when an employee is entitled to receive the redundancy pay component of insolvency benefit². This is essential so that, if an employee is re-employed by the same employer following redundancy, they are not entitled to redundancy pay twice in respect of the same period of service. This change brings Jersey in line with the UK³.

Article 11 – This change corrects a minor typographical error.

Article 12 – This change will allow the States to make changes by Regulation in 2 areas of the Law: the new Part 3A which relates to flexible working and in respect of the minimum hours of work that an employee is contracted to work per week for certain purposes under the Law. The Regulation-making power must be available in advance of 1st September in order that draft Regulations can be prepared, if required.

To commence on 1st September 2015 –

Article 3 – A new Part 3A is inserted into the Employment Law that will entitle an employee to request a change to their terms and conditions of employment in order to provide care for another person.

Article 4 – The existing Article 31 of the Employment Law is amended to protect employees against detriment by the employer in relation to any of the family friendly rights.

Article 5 – The amount of compensation for detriment is limited to a maximum of 4 weeks’ pay.

¹The amendment is based on a 2013 recommendation of the Employment Forum – www.gov.je/SiteCollectionDocuments/Working%20in%20Jersey/ID%20Codes%20of%20Practice%20Recommendation%20July%202013%2020130726%20JJ.pdf

² Article 26C of the Social Security (Jersey) Law 1974

³ Section 214 of the 1996 Employment Rights Act

Article 6 – A new Part 5A is inserted into the Employment Law to make provision for maternity leave, adoption leave and parental leave.

Article 10 – The existing Article 67 of the Employment Law is amended to provide that an employee is automatically unfairly dismissed if the reason for dismissal is connected with the family-friendly rights.

Article 13 – The existing Schedule 1 to the Employment Law is amended to make provision in relation to the calculation of the weekly rate of pay. The majority of these changes relate to the family-friendly rights.

Financial and manpower implications

There are no financial or manpower implications. The following statement of financial and manpower implications was included in the Projet for the Draft Employment (Amendment No. 8) (Jersey) Law 201- ([P.109/2014](#)), lodged on 3rd June 2014. No additional financial or manpower implications have been identified since that date –

“No additional funding or resources would be allocated to the Jersey Employment Tribunal specifically to deal with the introduction of this legislation. It is anticipated that existing budgets (allocated and requested) will be sufficient to provide the necessary services to enable employees to enforce these additional rights. Employee complaints relating to pregnancy and maternity are likely to include a sex discrimination complaint; the additional cost of enforcing that legislation will be included in the report to the States that accompanies the sex discrimination Regulations in 2015.

No additional funding or resources would be allocated to the Jersey Advisory and Conciliation Service specifically to deal with the introduction of this legislation. It is anticipated that existing budgets (allocated and requested) will be sufficient to provide the necessary services, including the advisory and training services. £5,000 will be allocated from existing budgets to enable JACS to provide public training courses on the family-friendly rights free to delegates in 2014 and 2015.

There are no financial implications for the States of Jersey as an employer because the States’ maternity policy provides that all women are entitled to 2 weeks’ maternity leave at full pay and paid time off work to attend ante-natal appointments.”

Explanatory Note

This Act will bring Articles 1, 2, 7, 8, 9, 11 and 12 of the Employment (Amendment No. 8) (Jersey) Law 2014 into force on 1st April 2015 and will bring the remaining provisions of that Law into force on 1st September 2015.



Jersey

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Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Article 14 of the Employment (Amendment No. 8) (Jersey) Law 2014¹, have made the following Act –

1 Commencement of Law

- (1) Articles 1, 2, 7, 8, 9, 11 and 12 of the Employment (Amendment No. 8) (Jersey) Law 2014² shall come into force on 1st April 2015.
- (2) The provisions of that Law that are not brought into force by paragraph (1) shall come into force on 1st September 2015.

2 Citation

This Act may be cited as the Employment (Amendment No. 8) (Jersey) Law 2014 (Appointed Day) Act 201-.

¹ *L.43/2014*
² *L.43/2014*