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# STATES OF JERSEY



## COMPENSATION AWARDS REGIME IN JERSEY – RESPONSE OF THE MINISTER FOR SOCIAL SECURITY TO THE REPORT AND RECOMMENDATIONS OF THE EMPLOYMENT FORUM

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Presented to the States on 1st August 2024  
by the Minister for Social Security

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STATES GREFFE

## REPORT

### Introduction

In June 2024 the Employment Forum presented its report and recommendations on the compensation awards regime in Jersey to the Minister for Social Security. A link to the Report is here:

[Employment Forum report and recommendations on the compensation awards regime in Jersey.pdf \(gov.je\)](#)

Compensation awards are made by the Jersey Employment and Discrimination Tribunal in cases where an employee's employment or discrimination rights have been breached by their employer.

The Forum's report covered four main areas:

- i. Compensation for breaches of most statutory employment rights
- ii. Compensation for findings of unfair dismissal
- iii. Compensation for financial loss and for hurt and distress in employment-related discrimination cases
- iv. The £10,000 limit on the Tribunal's jurisdiction to hear claims for contractual breaches of an employee's rights

The Forum also considered several ancillary issues and made recommendations, principally to do with the procedures of the Tribunal itself. These are:

- v. The ability of the Tribunal to anonymise its judgments in appropriate cases
- vi. The introduction of Tribunal fees
- vii. The introduction of a costs jurisdiction in the Tribunal
- viii. The time limits for lodging claims and responses

The Minister for Social Security thanks the Forum for its work on this project. The Minister has considered the report and its conclusions and recommendations and has decided to accept each of them. The Minister will bring forward legislative amendments to implement the Forum's recommendations in respect of Recommendations (i) – (iv). In relation to Recommendations (v) – (viii) the Minister will request law drafting as part of a thorough review of the Employment and Discrimination Tribunal's Rules and Regulations, which will take place in 2025

### The Employment Forum's recommendation in respect of:

- i. **Compensation for breaches of most statutory employment rights**

The Minister agrees that the current maximum limit of four weeks' pay for these types of compensation claims is too restrictive. The Tribunal should be given a wider margin of discretion to mark what may be particularly severe examples of employer breaches and for which the current maximum award is inadequate. The Minister agrees that eight weeks' pay is an appropriate maximum limit to set.

ii. **Compensation for findings of unfair dismissal**

The Minister agrees that the current scope of compensation awards – based on the length of an employee’s service and expressed in weeks’ pay - should be maintained but extended in the way the Forum recommends. The Minister considers it is more just to provide for a greater length of service and to have that reflected in increased financial compensation.

iii. **Compensation for financial loss and hurt and distress in employment-related discrimination cases**

The Minister agrees with the Forum’s conclusions that a significant increase in the level of compensation able to be awarded by the Tribunal is necessary and desirable in this type of claim. The current maximum award level of £10,000 is, in the Minister’s view, clearly inadequate. The Tribunal should have the power to mark particularly serious examples of unacceptable behaviours in the workplace with a much higher maximum award.

The Minister considers that a £50,000 limit or 52 weeks’ pay, whichever is higher, strikes an appropriate balance, for the reasons expressed by the Forum. The Minister will seek a power to make future limits by Order, to ensure that limits are kept up to date.

iv. **The £10,000 limit for breaches of an employee’s contractual rights**

The Minister agrees with the Forum’s recommendation that the £10,000 limit should be increased to £30,000, in line with the current jurisdictional limit of the Petty Debts Court.

The Minister supports the Forum’s view that increasing the limit would enable more claims to be resolved in the Tribunal, which is the appropriate body to consider these types of dispute.

v. **Anonymisation of Tribunal judgments**

The Minister agrees that the Tribunal should have the power to anonymise its judgments in appropriate cases. The Minister accepts the argument that, in a jurisdiction the size of Jersey, more harm could potentially be done to an employee’s well-being and employment prospects if their details are not redacted in a Tribunal judgment. Judgments of the Tribunal should always be in the public domain, but the Minister considers this recommendation to be sensible and important.

vi. **The introduction of a costs jurisdiction in the Tribunal**

The Minister agrees with the Forum that it would be proportionate for the Tribunal to be able to make costs orders in claims (and responses) which are vexatious or unreasonable.

The Minister notes that the current Tribunal Procedure Order provides that the Tribunal may strike out a claim, or part of a claim, or response, if the Tribunal considers it to be vexatious, or that the manner in which the proceedings have been conducted by the

claimant or respondent is vexatious or unreasonable. The Minister considers that a strictly limited costs regime would be appropriate to back up the power the Tribunal currently has.

vii. **The introduction of fees for lodging claims in the Tribunal**

The Minister agrees with the Forum that there should be no power for the Tribunal to levy fees for the lodging of claims. The Minister agrees that barriers to access justice should not be imposed for claimants who are, in the main, among the most vulnerable employees and whose claims are, again, for the most part of low value.

viii. **The time limit for lodging claims**

The Minister is persuaded that the current time limit for lodging a claim with the Tribunal (56 days) is appropriate and proportionate. The Minister notes that the Tribunal already has the power to extend the lodging time if it considers there are good reasons for doing so.

The Minister agrees that the time limit for filing a response to a claim should be increased from 21 to 28 days. There are claims which are particularly complex and which require more preparation in response than usual. The Minister considers that allowing more time for lodging a response will generally help with the administration of claims.

**The requirement for written reasons for dismissal**

In addition to accepting each of the Forum's recommendations relating to compensation awards, the Minister has decided to take this opportunity to make a further, separate, amendment to the Employment Law.

Currently, the Law does not require an employer to provide an employee with written reasons for their dismissal. The Minister will request law drafting to make the provision of written reasons for dismissal a legal requirement.