

STATES OF JERSEY



DRAFT EMPLOYMENT RELATIONS (REGISTRATION) (JERSEY) REGULATIONS 200

**Lodged au Greffe on 4th December 2007
by the Minister for Social Security**

STATES GREFFE



Jersey

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REPORT

Background

Article 7 of the Employment Relations (Jersey) Law 2007 provides that, unless registered in accordance with the Law, a trade union or employers' association (including any member or officer of a trade union or employers' association) shall not do any act in furtherance of any of the purposes for which it was formed.

The Law provides a framework for the establishment and administration of a 'register' of trade unions and employer associations. The intention has always been to provide a simple procedure for registration that is not onerous to administer and is not so detailed as to deter unions and associations from applying.

Article 27 of the Employment Relations Law sets out the basic information that must be provided by a trade union or employers' association in order to be registered:

- the name of the trade union or employers' association
- the address of the trade union or association
- the names of the union or association's officers
- a copy of the organisation's constitution
- and such other information as may be prescribed.

The Law provides that the Registrar is only required to refuse an application to register a trade union or employers' association if the application is not made in accordance with the Law, the name of the union or association is the same as (or is misleadingly similar to) another registered union or association, or the purposes of the union or association are unlawful. It is anticipated that it would be very rare for an application to be refused.

Registration may only be cancelled on limited grounds, as detailed in the Law itself, for example, if the union or association ceases to exist and the Registrar must be notified of any changes to the register within one month of that change.

The Registrar

The administration and maintenance of Jersey's Register of trade unions and employers' associations will be undertaken by a Registrar, to be appointed by the Minister for Social Security.

The Registrar will be independent from the Social Security Department and it should be noted that appeals against a decision of the Registrar must be made to the Royal Court.

The Draft Regulations

The Draft Regulations prescribe forms for trade unions and employers' associations to apply for registration, to apply to amend the details contained in the register and the form of certificate to be issued by the Registrar as proof of registration.

In addition to the information required by the Law, the Draft Regulations require that the following additional information must be provided by a trade union or employers' association on registering:

- Whether the trade union or employers' association consists of constituent or affiliated organisations or representatives of such organisations, and, if so, the names and addresses of such organisations;
- Whether it is a branch, constituent or affiliated organisation of one that is listed in the U.K., if so, the

name and address of that listed trade union or employers' association;

- The nature of the employment, trade or other type of work with which it is concerned;
- The date the trade union or employers' association came into existence;
- The number of officers that are resident or have a place of business in Jersey;
- The number of members, other than officers, that are resident or have a place of business in Jersey;
- Whether members have access to the trade union or employers' association's accounts, and if so, at what times;
- What procedures, if any, the trade union or employers' association has for balloting its members (which may be referred to in the constitution if provided therein).

The Draft Regulations also prescribe a nominal fee that must accompany any application for registration (£40) or an application to amend the register (£10), to offset the cost of administration. The amount is at a level equivalent to fees for registration charged in other jurisdictions, including the Isle of Man.

Trade unions and employers' associations will not be required to provide annual returns, including copies of audited accounts, or details of financial transactions and assets and liabilities, as required in other jurisdictions including the United Kingdom and the Isle of Man.

It is considered that the existing provisions for public inspection of the register, as set out in the Law, are sufficient, providing that the register may be inspected during normal working hours, free of charge, at the office of the Registrar.

Conclusion

A penalty has not been prescribed for a failure to register as benefits are gained through registration. When a trade union or employers' association is registered, the Law gives immunity from liability in tort (including for officials of that union or association) for action taken in furtherance of an employment dispute.

Once a trade union is registered in accordance with this Law, employees will also have the right (via the Employment (Jersey) Law 2003) to be represented in formal disciplinary and grievance hearings by employees or officials of that union, and the trade union representative will be protected from detrimental treatment or dismissal on the basis of their activities as a representative.

The prescribed information is considered to be adequate for the purpose of maintaining a public register, without being so prescriptive as to restrict applications. It is considered that unions and associations should be able to provide this basic information to the Registrar with minimal effort, particularly in view of the more detailed requirements of other jurisdictions.

Preparations are underway in order that all trade unions and employers' associations that currently exist or are represented in Jersey may be registered with the minimum of difficulty in January 2008.

Financial/manpower implications

It is anticipated that, following the initial registration of trade unions and employers' associations, the role of Registrar equates to a maximum of one half day per year and will be undertaken by an independent person to be appointed by the Minister. Any financial implications for administration will be offset by introducing a small charge for registration, as prescribed by the Draft Regulations.

Explanatory Note

These Regulations prescribe certain matters in connection with the registration of trade unions and employers' associations under the Employment Relations (Jersey) Law 2007 (the "principal Law").

Article 1 is an interpretation provision.

Article 2 prescribes the information that an applicant for registration under the principal Law must provide in addition to the information specified in the principal Law.

Article 3 prescribes the fee which must be paid for an application for registration and an application for amendment of the register. The former is £40 and the latter is £10.

Article 4 and the *Schedule* prescribe the application form for registration; the form for a certificate of registration and the application form for amendment of the register.

Article 5 cites the title of the Regulations and provides that they will come into force on 21st January 2008.



Jersey

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Arrangement

Regulation

- | | |
|----------|----------------------------------|
| <u>1</u> | <u>Interpretation</u> |
| <u>2</u> | <u>Prescribed information</u> |
| <u>3</u> | <u>Prescribed fees</u> |
| <u>4</u> | <u>Prescribed forms</u> |
| <u>5</u> | <u>Citation and commencement</u> |

SCHEDULE

PRESCRIBED FORMS

PART 1 - APPLICATION FORM

PART 2 - CERTIFICATE OF REGISTRATION

PART 3 -APPLICATION FOR AMENDMENT



Jersey

DRAFT EMPLOYMENT RELATIONS (REGISTRATION) (JERSEY) REGULATIONS 200

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Articles 8, 9, 10 and 27 of the Employment Relations (Jersey) Law 2007^[1], have made the following Regulations –

1 Interpretation

In these Regulations, “principal Law” means the Employment Relations (Jersey) Law 2007^[2].

2 Prescribed information

- (1) The following information is prescribed for the purposes of Article 8(3)(e) of the principal Law–
 - (a) whether the trade union consists wholly or mainly of constituent or affiliated organizations or representatives of such organizations, and, if so, the names and addresses of such organizations;
 - (b) whether the trade union is a branch, constituent or affiliated organization of a trade union entered on the list of trade unions under the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52) of the United Kingdom (“1992 Act”) and, if so, the name and address of that listed trade union;
 - (c) the nature of the employment, trade or other type of work with which the trade union is concerned;
 - (d) the date the trade union came into existence;
 - (e) the number of officers of the trade union that are resident or have a place of business in Jersey;
 - (f) the number of members of the trade union, other than officers, that are resident or have a place of business in Jersey;
 - (g) whether members of the trade union have access to the trade union’s accounts, and if so, at what times;
 - (h) what procedures, if any, the trade union has for balloting its members.
- (2) The information described in sub-paragraphs (a) to (h) of paragraph (1) is prescribed for the purposes of Article 8(4)(e) of the principal Law as if for the words “trade union”, except in the reference to the 1992 Act, there were substituted the words “employers’ association”.

3 Prescribed fees

- (1) The prescribed fee under Article 9 for an application for registration is £40.

- (2) The prescribed fee under Article 11 for an application for amendment of the register is £10.

4 Prescribed forms

- (1) The form set out in Part 1 of the Schedule is the form prescribed under Article 27 for an application for registration under Article 9 of the principal Law.
- (2) The form set out in Part 2 of the Schedule is the form prescribed for a certificate of registration issued under Article 10(3)(c) of the principal Law.
- (3) The form set out in Part 3 of the Schedule is the form prescribed under Article 27 for an application for amendment of the register under Article 11 of the principal Law.

5 Citation and commencement

- (1) These Regulations may be cited as the Employment Relations (Registration) (Jersey) Regulations 2008.
- (2) These Regulations shall come into force on 21st January 2008.

SCHEDULE

(Regulation 3)

PRESCRIBED FORMS

PART 1 – APPLICATION FORM

**The Employment Relations (Registration) (Jersey) Regulations 200-
APPLICATION FOR REGISTRATION**

To the Registrar

I/We* the undersigned apply for registration as a trade union/an employers' association* of: *Name of trade union/employers' association*

I/We* certify as follows:

1. Each of the following is an officer of the trade union/employers' association*:

Full name:

Office held:

2. The address of the trade union/employers' association* is:

3. *If applicable*] The trade union/employers' association* consists wholly or mainly of constituent or affiliated organizations or representatives of such organizations and the names and addresses of such organizations are:

4. *If applicable*] The trade union/employers' association* is a branch, constituent or affiliated organization of a trade union/employers' association entered on the list of trade unions/employers' associations* under the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) of the United Kingdom and the name and address of that listed trade union/employers' association is:

5. The nature of the employment, trade or other type of work with which the trade union/employers' association* is concerned:

6. The date the trade union/employers' association* came into existence:

PART 2 – CERTIFICATE OF REGISTRATION

**The Employment Relations (Registration) (Jersey) Regulations 200-
CERTIFICATE OF REGISTRATION**

I hereby certify that: *[name of Trade Union/Employers' Association]*

is registered in the Register of Trade Unions/Employers' Associations* in accordance with the Employment Relations (Jersey) Law 2007

Registered number: **[0000]**

.....

[Registrar]

[date]

** delete as applicable*

PART 3 – APPLICATION FOR AMENDMENT

**The Employment Relations (Registration) (Jersey) Regulations 200-
APPLICATION FOR AMENDMENT OF REGISTER**

To the Registrar

Name of trade union/employers' association*:

Registered number:

I the undersigned apply for the following amendment of the entry of the above trade union/employers' association* in the Register: *(details of entry and amendment required)*

I certify that the change to which this application relates took effect on:

Date:

I certify that I am authorized to make this application by a resolution of a general/meeting of the members/a meeting of the executive committee/other* *(if other specify below**)* of the trade union/employers' association* dated 20.....

**other.....

Name of member or officer by whom application is made:

.....
(BLOCK CAPITALS)

.....
(SIGNED)

Dated 20.....

If the constitution of the trade union or employers' association has been changed, this application must be accompanied by a copy of the amended constitution and verified by the applicant and with the prescribed fee of £10.

* Delete as applicable

[1] L.3/2007

[2] L.3/2007