

# STATES OF JERSEY



## **DRAFT EMPLOYMENT (JERSEY) LAW 2003 (AMENDMENT Nos. 5, 6 AND 7) (APPOINTED DAY) ACT 201-**

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**Lodged au Greffe on 20th February 2012  
by the Minister for Social Security**

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**STATES GREFFE**





Jersey

## **DRAFT EMPLOYMENT (JERSEY) LAW 2003 (AMENDMENT Nos. 5, 6 AND 7) (APPOINTED DAY) ACT 201-**

### **REPORT**

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#### **Background**

Three amendments to the Employment (Jersey) Law 2003, primarily relating to redundancy rights, have been adopted by the States since 2010.

1. Employment (Amendment No. 5) (Jersey) Law 2010 (“Amendment 5”),
2. Employment (Amendment No. 6) (Jersey) Law 2012 (“Amendment 6”),
3. Employment (Amendment No. 7) (Jersey) Law 2012 (“Amendment 7”).

Amendment 6 and Amendment 7 received Privy Council sanction on 14th December 2011. This Appointed Day Act provides that certain provisions of the 3 amendments will come into force in 2012, either immediately, or on 1st June 2012.

The primary purpose of the 3 amendments can be summarised as follows:

**Amendment 5** provides the right to redundancy pay and collective consultation. The right to redundancy pay came into force on 1st January 2011. Rights relating to collective redundancy situations and collective consultation were not brought into force because the Minister for Social Security had proposed an amendment (Amendment 6) to the rules relating to collective consultation.

**Amendment 6** adjusts redundancy rights and collective consultation rules. Having directed the Employment Forum to consult further on collective consultation, the Minister lodged a proposal revising the rules that would trigger the requirement to consult representatives of employees about proposed redundancies. Amendment 6 was adopted by the States in January 2011.

**Amendment 7** addresses the accrual of service under short fixed-term contracts in respect of qualifying for redundancy rights. An unintended consequence was identified relating to the interaction between the calculation of continuous service and the qualifying period of service for redundancy rights that is likely to have disproportionate negative consequences for seasonal employers and employees. Amendment 7 was adopted by the States in June 2011.

## **Appointed dates**

**Immediate** – The new provisions that would come into force immediately, subject to States approval, would include:

- Amendments to clarify existing redundancy rights, including clarifying the definition of “dismissal” and the rules for determining a week’s pay.
- Providing that, for the purpose of calculating whether an employee has the required 2 years’ continuous service to qualify for redundancy pay, weeks in which an employee works less than 8 hours are included in the calculation of continuous service.
- Providing that the interval that breaks continuous service between successive fixed-term contracts is 9 weeks, rather than 26 weeks, for the purpose of calculating whether an employee has the required 2 years’ continuous service to qualify for redundancy pay.

**1st June 2012** – The amendments that would come into force, after an approximate three month notice period, include:

- A requirement for employers to consult with nominated representatives on behalf of employees when proposing to dismiss as redundant 12 or more employees at one establishment within a capture period of 30 days, whether unionised or non-unionised employees.
- Provisions for the election of employee representatives to represent employees in collective consultation, and rights for those representatives.
- A ‘protective award’ where an employer fails to consult, as required, of up to 9 weeks’ compensatory pay to each affected employee.
- A requirement for employers to notify the Minister for Social Security when proposing the redundancy of 12 or more employees at one establishment in a 30 day capture period.

The new collective redundancy provisions bring additional administration for employers and potentially significant financial penalties for non-compliance. JACS training courses and guidance have prepared employers for the impending collective consultation requirements during the past year.

## **Financial and manpower implications**

There are no additional financial or manpower implications for the States arising from the adoption of this Draft Act. The existing budgets for the Jersey Employment Tribunal and the Jersey Advisory and Conciliation Service, are sufficient for the implementation and operation of this legislation during 2012.

## **Explanatory Note**

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This Appointed Day Act would amend the Employment (Jersey) Law 2003 to bring into force further provisions relating to redundancy contained in the following enactments –

Employment (Amendment No. 5) (Jersey) Law 2010;

Employment (Amendment No. 6) (Jersey) Law 2012;

Employment (Amendment No. 7) (Jersey) Law 2012.

Provisions in Amendment Nos. 6 and 7 relating mainly to fixed term contracts and continuity of service would come into force the day after this Act is made.

The remaining provisions brought into force by this Act would come into force on 1st June 2012. Those provisions concern collective consultation requirements, protective awards and rights during the protected period, notification to the Minister and employee representatives.





Jersey

**DRAFT EMPLOYMENT (JERSEY) LAW 2003  
(AMENDMENT Nos. 5, 6 AND 7) (APPOINTED DAY)  
ACT 201-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Article 7(2) of the Employment (Amendment No. 5) (Jersey) Law 2010<sup>1</sup>, Article 7 of the Employment (Amendment No. 6) (Jersey) Law 2012<sup>2</sup> and Article 10 of the Employment (Amendment No. 7) (Jersey) Law 2012<sup>3</sup>, have made the following Act –

**1 Commencement of Laws**

- (1) The following Articles shall come into force on the day after this Act is made –
  - (a) Articles 1, 3 and 7 of the Employment (Amendment No. 6) (Jersey) Law 2012<sup>4</sup>;
  - (b) Articles 1, 2, 3, 4, 5, 7, 8 and 10 of the Employment (Amendment No. 7) (Jersey) Law 2012<sup>5</sup>.
- (2) The following Articles shall come into force on 1st June 2012 –
  - (a) Article 2 of the Employment (Amendment No. 5) (Jersey) Law 2010<sup>6</sup> in so far as it inserts the definition “affected employee” in the Employment (Jersey) Law 2003<sup>7</sup>;
  - (b) Article 5 of the Employment (Amendment No. 5) (Jersey) Law 2010<sup>8</sup> in so far as it inserts Articles 60F, 60G, 60H, 60I, 60J, 60N, 60O, 60P, 60Q, 60R and 60S in the Employment (Jersey) Law 2003<sup>9</sup>;
  - (c) Articles 4, 5 and 6 of the Employment (Amendment No. 6) (Jersey) Law 2012<sup>10</sup>;
  - (d) Article 6 of the Employment (Amendment No. 7) (Jersey) Law 2012<sup>11</sup>.

**2 Citation**

This Act may be cited as the Employment (Jersey) Law 2003 (Amendment Nos. 5, 6 and 7) (Appointed Day) Act 201-.



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<i>1</i>	<i>L.9/2010</i>
<i>2</i>	<i>L.2/2012</i>
<i>3</i>	<i>L.3/2012</i>
<i>4</i>	<i>L.2/2012</i>
<i>5</i>	<i>L.3/2012</i>
<i>6</i>	<i>L.9/2010</i>
<i>7</i>	<i>chapter 05.255</i>
<i>8</i>	<i>L.9/2010</i>
<i>9</i>	<i>chapter 05.255</i>
<i>10</i>	<i>L.2/2012</i>
<i>11</i>	<i>L.3/2012</i>