

# STATES OF JERSEY



## **DRAFT EMPLOYMENT OF STATES OF JERSEY EMPLOYEES (AMENDMENT No. 7) (JERSEY) REGULATIONS 201- (P.97/2014): AMENDMENT**

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Lodged au Greffe on 30th June 2014  
by the Chief Minister

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**STATES GREFFE**

DRAFT EMPLOYMENT OF STATES OF JERSEY EMPLOYEES (AMENDMENT  
No. 7) (JERSEY) REGULATIONS 201- (P.97/2014): AMENDMENT

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**PAGES 14–15, ARTICLE 4 –**

After paragraph (1) insert the following paragraph and renumber the remaining paragraph accordingly –

“(2) In Article 7(1), for the words “unless the act or omission was in bad faith” there shall be substituted the words –

‘unless –

- (a) it is shown that the act or omission was in bad faith; or
- (b) liability arises in respect of an act or omission that is unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000 (acts of public authorities incompatible with Convention rights).’.”

CHIEF MINISTER

## REPORT

The Chief Minister brings this amendment forward following a question raised by the Chairman of the Public Accounts Committee, who asked why the Draft Employment of States of Jersey Employees (Amendment No. 7) (Jersey) Regulations 201- does not contain an amendment to the Employment of States of Jersey Employees (Jersey) Law 2005, so as to add to that Law the same reference to limitation of civil liabilities as set out in the proposed Comptroller and Auditor General (Jersey) Law 201-.

Article 10 of the Draft Comptroller and Auditor General (Jersey) Law 201- ([P.98/2014](#)) is entitled “**Limitation of civil liability**”, and paragraph (3)(b) states –

“(b) so as to prevent an award of damages made in respect of an act on the ground that the act was unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000.”

The provision is included in the Draft Comptroller and Auditor General (Jersey) Law 201- so that the limits on the restriction of civil liability are clear, and a reader does not have to be aware of, and understand, the relevant provisions of the Human Rights (Jersey) Law 2000 in order to be aware of the restriction.

The Employment of States of Jersey Employees (Jersey) Law 2005 already contains an Article limiting civil liability for actions done under the Law. That Article does not currently contain an equivalent to Article 10(3)(b) of the Draft Comptroller and Auditor General (Jersey) Law 201-, although the Law Draftsman is of the view that the Employment of States of Jersey Employees (Jersey) Law 2005 would be construed as if such a provision were included, having regard to the requirements of the Human Rights (Jersey) Law 2000.

The Employment of States of Jersey Employees (Jersey) Law 2005, and all other enactments containing a limitation on civil liability, would be amended by the Draft Law Reform (Miscellaneous Provisions) (Jersey) Law 201-, currently being prepared. The amendment would be to add a provision equivalent to Article 10(3)(b) of the Draft Comptroller and Auditor General (Jersey) Law 201-.

This amendment, then, simply advances an amendment to the Employment of States of Jersey Employees (Jersey) Law 2005 that would otherwise have been made, in due course, by the Draft Law Reform (Miscellaneous Provisions) (Jersey) Law 201-.

As the question raised by the Chairman of the Public Accounts Committee seeks to include paragraph (3)(b) before the Draft Law Reform Miscellaneous Provisions (Jersey) Law 201- comes into effect, the Chief Minister supports this amendment.

### **Financial and manpower implications**

There are no financial or manpower implications for the States arising from this amendment.