

STATES OF JERSEY



Jersey

DRAFT EMPLOYMENT (AMENDMENT OF LAW) (No. 3) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 17th September 2021
by the Minister for Social Security
Earliest date for debate: 2nd November 2021**

STATES GREFFE

REPORT

Summary

The Minister for Social Security made a commitment in the 2020 Government Plan to update the Employment Law to improve employee rights in respect of rest breaks and annual leave. Under her instructions, the Employment Forum undertook a public consultation on this issue between December 2019 and February 2020.

The Covid-19 pandemic disrupted this project from March 2020 and led to a delay in the presentation of the Forum's report which was published a year later in March 2021. The Minister is very grateful to the Forum for its work on this important subject at a difficult time and has accepted all of the Forum's recommendations.

In summary these:

- increase statutory annual leave from 2 weeks to 3 weeks, in addition to all statutory bank holidays;
- introduce the right to a break during a working day of at least 15 minutes in any working period that lasts for at least six hours.

These changes can be made by Regulation and, if approved by the Assembly, will come into force on 1st January 2022.

Employment Forum instructions and consultation

The consultation by the Employment Forum on statutory annual leave and working day rest breaks began in December 2019 and concluded in February 2020.

Ministerial instructions

The Minister for Social Security directed the Forum to consider the following terms:

Annual leave –

- I. *Remove the provision relating to public and bank holidays to provide that employees are entitled to a specific number of weeks of statutory annual leave, which may include public and bank holidays. Consultation should explore in what sectors employees are currently missing out on paid bank and public holidays when they do not normally work on that day/those days.*
- II. *Increase statutory annual leave from the current 10 days. Consultation should explore –*
 - (i) *in what sectors employees are only entitled to the statutory 10-day minimum;*
 - (ii) *what might be an appropriate overall period of leave, which the Minister proposes should be in the range of 20 days to 28 days;*
 - (iii) *the possibility of a staged approach to the implementation of a longer period of statutory annual leave.*

Rest breaks –

Consult on amending the Employment Law to provide that all employees in Jersey are entitled to take a 20-minute unpaid rest break in each six-hour period worked.

Outcome of consultation

The onset of the Covid-19 pandemic delayed the detailed consideration of consultation responses. The Forum's deliberations recommenced in September 2020.

In March 2021, the Jersey Employment Forum recommended to the Social Security Minister changes to the [Employment \(Jersey\) Law 2003](#), to increase the level of statutory annual leave entitlement from two weeks to three weeks and to provide for a working day rest break of a minimum of 15 minutes in any period worked of 6 hours or more. [Here](#) are the results of the consultation exercise and the detailed analysis and recommendations from the Employment Forum.

The Forum did not recommend a staged approach in the increase in statutory annual leave entitlement from two to three weeks. The Forum recommended that the current statutory provision for public and bank holiday leave should be maintained separately from the statutory annual leave entitlement, giving a total entitlement of three weeks and nine days in a normal year. This is in the middle of the range suggested by the Minister for consideration.

In the consultation exercise, the Forum noted the lack of demand from both employees and employers to combine statutory annual leave with public and bank holidays. The Forum concluded that the present system appears to be acceptable to employees and employers.

Consideration of statutory annual leave entitlement

The consultation exercise showed that, of employers responding, more than 70% of employees are currently entitled to more than the statutory minimum of two weeks. In the case of employees' responses, that figure rose to more than 85%.

The exercise also demonstrated that achieving a good work/life balance and, in particular, being able to spend more time with family, is an important component of peoples' lives. The Forum highlighted this aspect in the context of the Government's stated aim of pursuing "family friendly" policies.

Also highlighted in the survey are factors such as increased productivity from a rested and motivated workforce, a reduction in sickness absence and an increased sense of health and well-being.

Consideration of working day rest breaks

The Employment Law currently makes no provision for rest breaks taken during the working day, although there are provisions for rest days in each 7- or 14-day working period.

Nearly 80% of employee responses indicated that working day rest breaks are either allowed or required. This figure rises to over 95% of employer responses.

The Forum noted the diversity of arrangements currently in place. The Forum's view was that, in such circumstances, employees and employers are best served by maintaining a good level of flexibility, and so – in its recommendation in respect of working day rest breaks – whether breaks are paid or unpaid is left to individual terms of contractual arrangements between employee and employer.

The responses to the consultation exercise demonstrate that the most common length of time allowed or required was 15 rather than 20 minutes. In this respect the Forum recommended that the Minister adopt the former rather than the latter.

Ministerial response

The Minister is very grateful to the Forum for its detailed and informative report on the consultation exercise.

The Minister has accepted all of the recommendations of the Employment Forum. Law drafting has been completed and the Minister is seeking approval of the draft Regulations from the States Assembly.

The Regulations amend Article 10 of the Employment Law to provide for a new right to a working day rest break of a minimum of 15 minutes in any period worked of six hours or more and amend Article 11 to provide for the increase in statutory annual leave entitlement.

Financial and manpower implications

There are no financial or manpower implications arising from these draft Regulations.

EXPLANATORY NOTE

These Regulations if passed will amend Articles 10 and 11 of the Employment (Jersey) Law 2003 (the “Employment Law”), to amend an employee’s entitlement to rest periods and to annual leave.

In particular –

Regulation 1 provides that these Regulations amend the Employment Law.

Regulation 2 amends Article 10 of the Employment Law to introduce an entitlement of an employee to a rest period of no less than 15 minutes in respect of each continuous period of 6 hours or more worked.

Regulation 3 amends Article 11 of the Employment Law to increase an employee’s entitlement to annual leave from 2 weeks to 3 weeks.

Regulation 4 gives the citation and provides that the regulations come into force on 1st January 2022.



Jersey

DRAFT EMPLOYMENT (AMENDMENT OF LAW) (No. 3) (JERSEY) REGULATIONS 202-

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

THE STATES make these Regulations under Articles 10(6) and 11(6) of the [Employment \(Jersey\) Law 2003](#) –

1 Interpretation

These Regulations amend the [Employment \(Jersey\) Law 2003](#).

2 Article 10 (weekly rest period) amended

- (1) Paragraphs (2) to (6) amend Article 10.
- (2) In the heading “weekly” is deleted.
- (3) For paragraph (1) there is substituted –
 - “(1) An employee is entitled to –
 - (a) an uninterrupted rest period of no less than 15 minutes in each continuous period of no less than 6 hours during which the employee works for his or her employer; and
 - (b) subject to paragraph (2), an uninterrupted rest period of no less than 24 hours in each 7-day period during which the employee works for his or her employer.”.
- (4) In paragraph (2), in the full-out text, for “paragraph (1)” there is substituted “paragraph (1)(b)”.
- (5) In paragraph (2A)(b), before “does not require”, there is inserted “for a rest period under paragraph (1)(b)”.
- (6) In paragraph (2B) –
 - (a) in sub-paragraph (a) for “paragraph (1)” there is substituted “paragraph (1)(b)”; and
 - (b) in sub-paragraph (b) after “rest period” there is inserted “under paragraph (1)(b)”.
- (7) For paragraph (3) there is substituted –
 - “ (3) For the purposes of paragraph (1)(a) a continuous period is taken to begin when the employee begins working on any particular day.

- (3A) For the purposes of paragraphs (1)(b) and (2), a 7-day period or a 14-day period is taken to begin –
- (a) at such times on such days as may be specified for the purposes of this Article in a relevant agreement; or
 - (b) where there are no provisions of a relevant agreement which apply, at the start of each week or every other week respectively.”.

3 Article 11 (entitlement to annual leave) amended

In Article 11(1)(a) (entitlement to annual leave) for “2 weeks” there is substituted “3 weeks”.

4 Citation and commencement

These Regulations may be cited as the Employment (Amendment of Law) (No. 3) (Jersey) Regulations 202- and come into force on 1st January 2022.