

STATES OF JERSEY



EMPLOYMENT OF STATES OF JERSEY EMPLOYEES LAW: PROPOSED CHANGES

Lodged au Greffe on 16th October 2009
by the Deputy of St. Martin

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to agree that the Employment of States of Jersey Employees (Jersey) Law 2005 should be amended as necessary to provide that –
 - (i) the composition of the States Employment Board should be amended so that it is comprised of the Chief Minister as Chairman (or another member of the Council of Ministers nominated by the Chief Minister in his or her place) together with one other Minister appointed by the Chief Minister and 2 elected members of the States who are neither Ministers nor Assistant Ministers elected by the States,
 - (ii) the casting vote of the person presiding at meetings of the States Employment Board provided by Article 6(1)(f) of the Law should be abolished and replaced with a provision that, in the event of an equality of votes, the matter under discussion shall be determined in the negative,
 - (iii) the casting vote of the person presiding at meetings of the Jersey Appointments Commission provided by Article 21(2)(f) of the Law should be abolished and replaced with a provision that, in the event of an equality of votes, the matter under discussion shall be determined in the negative;
- (b) to request the Chief Minister to bring forward for approval the necessary amendments to the Employment of States of Jersey Employees (Jersey) Law 2005 to give effect to the proposals.

DEPUTY OF ST. MARTIN

REPORT

The States has recently debated a vote of no confidence in the States Employment Board, P.142/2009. Whilst a number of Members felt they could not support the proposition, concerns were raised regarding the Board's composition and role.

On 6th July 2005, the States approved the Employment of States of Jersey Employees (Jersey) Law 2005, (P.99/2005). The Law established the States Employment Board which is responsible for a number of key elements relating to States employees.

The Law was designed to introduce new arrangements which would establish how public service employees would be treated following the introduction of Ministerial Government. In addition, it also instituted the Jersey Appointments Commission on a formal legal basis; previously it had been constituted by means of an Act of the States.

Under the terms of the proposed legislation, all public servants with some exceptions and variations became employees of a States Employment Board. The Board would act as the employer and would be constituted as a legal entity. Its membership would be drawn from the Council of Ministers and would consist of at least 3 members of the Council, with the Chief Minister being appointed as Chairman of the Board, although the latter responsibility could be delegated to another member of the Council if the Chief Minister so wished.

The functions of the States Employment Board are set out in Article 8 of the Law. Effectively it would have responsibility for the functions that were exercised by the former Policy and Resources Committee. In constituting a single employer for all public service employees, it was considered that a consistent, coherent and harmonised approach to human resource management issues would be secured, which would prove of overriding benefit in the future.

Article 5 relates to the Membership of the Board. At present the Chief Minister is Chairman along with the Deputy Chief Minister and two fellow Ministers. During the vote of confidence debate concerns were expressed regarding the Board's terms of reference. There were apparent conflicts of interest, the composition was too narrow and not representative of the States as a whole and there was a perception that Board Members were too busy to give proper care and attention to the many tasks within their remit.

Along with many other Members I did not support the proposition because I thought the promoter's arguments were too narrow and revolved mainly around the issue of the 2009 pay rates which received States approval. However it was apparent that the negotiations were not handled in a satisfactory manner. Clearly given the financial difficulties that are abound negotiations required sensitivity and an appreciation that for some States employees not to receive any pay increase would involve hardship. Rightly or wrongly there is a perception that the Board's approach was unsympathetic which has engendered mistrust.

The Board has also appeared to be oblivious to the increasing rise in the number of suspended States employees. Many of whom were suspended without written reasons and left suspended for months on end. Proposals to address the worrying and costly issues were lodged but were opposed by way of amendments by Board members who again displayed a lack of an understanding of the situation. This was evident because their amendments were not approved.

However what was of extreme concern was the fact that the Board failed to adhere to the States wishes when appointing a Panel to review suspensions. It even opposed proposals to re-instate the Panel in its intended form. The Board Members were again shown to be out of step with their States colleagues who supported the re-instatement.

I do not have a problem with the principle of the States Employment Board nor that it should be chaired by the Chief Minister, however it is apparent that the Board is a purely a rubber stamping body which is not doing justice to States employees or States Members.

To ensure there is a balance I believe the States Employment Board should consist of members from both the Executive and non Executive side of the States. This should ensure that advice is challenged and Board Members adopt a caring, sensitive, consistent, coherent and harmonised approach to human resource management issues in line with proposals contained in P.99/2005.

To achieve this proposal it will be necessary to amend the existing Employment of States Employees (Jersey) Law 2005. The Law should be amended to allow for the Board to consist of no more than two members to be appointed by the Council of Ministers and two States Members who are neither Ministers nor Assistants. The Law should also be amended to allow for the latter to be elected at a States Sitting.

In the event of a tied vote, the Law currently allows for the person presiding over meetings held by the States Employment Board and the Jersey Appointments Commission to have a second and casting vote. I do not believe presiding persons should have two votes, in the event of a tie the vote should be taken to have been lost.

Manpower and financial implications

There are no financial or manpower implications arising from these proposals.