

STATES OF JERSEY

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DRAFT EMPLOYMENT RELATIONS (AMENDMENT) (JERSEY) LAW 200

Lodged au Greffe on 30th January 2006
by Deputy G.P. Southern of St. Helier

STATES GREFFE



Jersey

DRAFT EMPLOYMENT RELATIONS (AMENDMENT) (JERSEY) LAW 200

REPORT

The detailed arguments supporting the objections and reservations that continue to be expressed by trade union representatives on the Island over our employment laws and their associated Codes of practice are laid out in the submission by John Hendy Q.C., one of the U.K.'s foremost Employment Law specialists. This amendment addresses one of the major perceived defects in employment legislation as currently drafted, namely the right to recognition of a trade union by an employer, subject to the union's compliance with the associated code of practice.

This right was set out by the Employment and Social Security Committee in its consultation document, "Fair Play in the Workplace: Trade Union Issues", issued in July 2001, as follows –

Every trade union should have the right –

1. to organise and support industrial action in accordance with the union's rulebook to protect members' interests;
2. to uphold its own rule book and democratic procedures and to spend its funds and conduct its own activities in accordance with its rules, free from employer interference;
3. to represent its members in any workplace on any issue;
4. to be granted recognition, where necessary, voluntarily and/or formally, and to negotiate collective agreements with any employer where a majority of employees are members of the union or vote for recognition of it;
5. where the union has members, to have reasonable access to a suitable location in an employer's premises in order to communicate with members, to inspect for health, safety or welfare reasons or to ensure compliance with employment laws.

It seems perfectly obvious to me that, where a trade union goes through the correct organisation, membership and balloting procedures as outlined in the code of practice for seeking collective representation of its members, refusal of the employer to accept the wishes of his or her employees would be constitute an unreasonable act. Yet, under the law as currently drafted, such an action is permitted. The effect of this amendment is to replace any arguments over the "unreasonableness" or otherwise of any such action with a clear and straightforward definition.

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

Explanatory Note

Under Article 5 of the Employment Relations (Jersey) Law 200-, a dispute between one or more employers and one or more employees is only a “collective” employment dispute if the latter are represented by a trade union and a collective agreement exists between the employer or employers and the union.

That Law only confers jurisdiction on the Jersey Employment Tribunal in respect of collective disputes (though the Tribunal has jurisdiction under the Employment (Jersey) Law 2003 in respect of other employment disputes).

The effect of this amending Law is to provide that an employment dispute may be a collective dispute, even if there is no collective agreement, as long as the trade union by whom the employee or employees are represented fulfils criteria for the recognition of a union that are set out in a code of practice made under the Employment Relations (Jersey) Law 200-.

The amending Law will come into effect on the seventh day after it is registered in the Royal Court.



Jersey

DRAFT EMPLOYMENT RELATIONS (AMENDMENT) (JERSEY) LAW 200

A LAW to amend the Employment Relations (Jersey) Law 200-.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 “Collective employment dispute”

In Article 5(1)(b) of the Employment Relations (Jersey) Law 200-^[1], after the words “a collective agreement exists between the employer or employers and the trade union” there shall be inserted the following words –

“, or the trade union is one that fulfils criteria for its recognition that are set out in an approved code of practice”.

2 Citation and commencement

- (1) This Law may be cited as the Employment Relations (Amendment) (Jersey) Law 200-.
- (2) This Law comes into force on the seventh day after its registration.

^[1] *Law currently awaiting Privy Council sanction*