

STATES OF JERSEY



Jersey

DRAFT EMPLOYMENT AND DISCRIMINATION (JERSEY) AMENDMENT LAW 202- (P.78/2024): SECOND AMENDMENT

**Lodged au Greffe on 21st January 2025
by Deputy M.R. Ferey of St. Saviour
Earliest date for debate: 4th February 2025**

STATES GREFFE

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PAGE 11, ARTICLE 8 –

In paragraph (2), in inserted paragraphs (1A)(a) and (1B) for “the greater of £50,000” substitute “the lesser of £30,000”.

DEPUTY M.R. FERREY OF ST. SAVIOUR

REPORT

Firstly, to clarify that this amendment is in no way connected with my role as vice-chair of the States Employment Board. I have taken advice and there are no conflicts of interest in my bringing this amendment.

Also, this amendment is not an attempt to diminish the progress of enhancing rights and freedoms for employees. It's also not designed to undermine the great work of the Employment Forum, but that doesn't mean that we shouldn't reconsider the recommendation they have made.¹

This amendment seeks to curb the proposed increase to the maximum limit for financial loss compensation awards, and the total amount of compensation ordered under paragraph (1A)(a) and (b) [Draft Employment and Discrimination \(Jersey\) Amendment Law 202-](#), in relation to employment-related discrimination claims from “the greater of £50,000 or 52 weeks’ pay” to “the lesser of £30,000 or 52 weeks’ pay”. Currently Article 42(1)(b)(i) of the [Discrimination \(Jersey\) Law 2013](#) mandates compensation for financial loss “in an amount not exceeding £10,000”, considering that an inflation-linked rise over the period 2013 to 2024 would increase the maximum sum from £10,000 to £15,057.99 (a 50.6% increase) the proposed sum of £50,000 or 52 weeks’ pay, whichever is greater, is excessive as this is a 400% increase in terms of the sum of £50,000 and could be much higher based on the provision of compensation based on 52 weeks’ pay. In contrast, this amendment’s proposal of an absolute limit of £30,000 for financial loss compensation claims, and total amount of compensation ordered, is a more realistic sum which aligns with the jurisdiction of the [Petty Debts Court](#). I therefore cannot see any justification for a 400% increase in the maximum claim from £10,000 to £50,000, or potentially greater based on the provision of 52 weeks’ pay, at a time when businesses and charities are facing many other rising costs which could ultimately affect their economic well-being.

In my view awarding compensation based on the greater of £50,000 or 52 weeks’ pay, could be a barrier to employment as employers who are considering taking on staff with differences may be deterred from doing so as the cost of getting it wrong could be financially catastrophic to the business or charity. Far better then, to have an increase which is aligned to the jurisdiction of the Petty Debts Court, which is the correct benchmark, as this was the rational for setting the original maximum compensation sum in 2013 when the jurisdiction of the Petty Debts Court was £10,000. Any increase should continue in this vein.

It is also important to remember that this sum is per alleged breach of the law so, if there were three breaches by an employer this could result in a £150,000 claim against them in terms of the £50,000 limit, with the potential addition of legal costs this could easily exceed £200,000. In addition, unfair dismissal claims for discrimination are a day-one right so there is no 1-year qualifying period before a claim can be brought. This means an employee could make a compensation claim of £50,000 or 52 weeks’ pay, no matter their length of service.

Our discrimination law, in relation to disability, takes elements from both medical and social models as opposed to the United Kingdom’s [Equality Act 2010](#) which follows the medical model² of disability.³ Therefore, some cases of discrimination are far more nuanced than would be apparent in the United Kingdom.

Financial and staff implications

There are no financial or staff implications arising from this proposition.

¹ [Consultation Exercise on The Levels Of Compensation Awards for Breaches of the Employment and Discrimination Laws: Report and Recommendations of the Jersey Employment Forum](#), June 2024

² [Draft Discrimination \(Disability\) \(Jersey\) Regulations 201-](#) (P.20/2018), p.9

³ [Introduction to the Social and Medical Models of Disability](#) / Parliamentary and Health Service Ombudsman

Children’s Rights Impact Assessment

A Children’s Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.