

STATES OF JERSEY



MANUAL WORKERS' JOINT COUNCIL: MEMBERSHIP

Lodged au Greffe on 12th October 2009
by the Chief Minister

STATES GREFFE

PROPOSITION

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

to refer to their Act of 9th November 1961, (amended by Act of the States on 14th September 2006) approving the constitution of a Manual Workers' Joint Council on the basis set out in ANNEX B to that Act, and to approve the following amendments –

In Section 3 – Membership of the constitution –

- (a) in the first line of paragraph 3(a), delete the number “10” and insert the number “12”;
- (b) in the first line of paragraph 3(a), delete the number “5” and insert the number “6”;
- (c) in the third line of paragraph 3(a), delete the number “5” and insert the number “6”;
- (e) in the second line of paragraph 3(b), delete the word “Four” and insert the word “five”;
- (f) in the first and second line of paragraph 3(c), delete the words “Transport and General Workers' Union” and insert “Unite the Union”.

In Appendix A1 of ANNEX B – Union Membership –

- (a) in the sixth line of (b), delete the word “five” and insert the number “six”;
- (b) in the seventh line of (b), delete the words “Transport and General Workers' Union” and insert “Unite the Union”;
- (c) in the second line of (c), delete the words “Transport and General Workers' Union” and insert “Unite the Union”;
- (d) in the first and third lines of (d), delete the words “Transport and General Workers' Union” and insert “Unite the Union”.

In Appendix B of ANNEX B – Rules for the Conduct of Business –

- (a) In the first line of paragraph 7, delete the word “four” and insert the word “six”;
- (b) in the first and second line of paragraph 7, delete the word “two” in both cases and insert the word “three”.

CHIEF MINISTER

REPORT

In November 1961, the States made an Act establishing a Manual Workers' Joint Council whose main function was to determine pay and conditions of service for manual workers employed in States departments and in the Parishes (Appendix). The Council has continued to meet on a regular basis since that time.

Under the amendment to the Act of 1961 dated 14th September 2006, the membership of the Council was revised to consist of 10 members, of whom 5 represent the States and Parishes, and 5 represent the manual workers employed by the States and Parishes.

Of the 5 members representing the States and Parishes, 4 are representatives of the States and 1 is a representative of St. Helier Parish and the Constables of Jersey. All 5 representatives of the employees are appointed by Unite the Union.

The States Employment Board, which is the employer for all manual workers employed in States departments, has agreed with Unite the Union that 10 members on the Council is now too small a number to afford the Employees' Side a reasonable and realistic representational level on the Council and that a more realistic number would be 12. Of these 12, 6 would represent the States and Parishes and 6 would represent the employees.

Of the 6 members representing the Employers 5 would represent the States and 1 the Constables of Jersey. This has been agreed with the Comité and the Constable of St. Helier, with the former confirming that it would normally expect its representative to be the latter.

It is also intended that the quorum for Council meetings will be increased from four to six, with a minimum of three from each Side.

The change to the Constitution also presents the opportunity to amend the name of the Union representing the Employees' Side from 'Transport and General Workers' Union' (TGWU) to 'Unite the Union' – the name change following the merger between the TGWU and Amicus Union.

It is also intended to alter Appendix C – The Procedure for the Settlement of Differences so that in the case of a failure to agree, reference to the Disputes Committee will come before reference to the Employer. The result of this will be that the final arbiter of a failure to agree (or appeal against disciplinary action) will be the States Employment Board. In addition, the opportunity will be taken to correctly refer to the Employer as the States Employment Board as opposed to the previous depiction of the employer as "the Employing Committee". The Act does not need to be amended to achieve this.

The changes proposed have been discussed and agreed with the Regional Industrial Organiser of Unite the Union.

Financial and manpower statement

There are no financial or manpower consequences arising from this proposition.

APPENDIX

1961 ACT OF THE STATES – MANUAL WORKERS’ JOINT COUNCIL

ANNEX B

1. Title

The **COUNCIL** shall be known as the Jersey Manual Workers’ Joint Council, hereinafter referred to as ‘the Council’.

2. Scope and Functions

The functions of the Council shall be as set out in Appendix A and shall relate to manual workers in the employment of the States and other local services in Jersey except such workers as are already covered by separate agreement with any other representative organisation.

3. Membership

a) The Council shall be constituted of 10 members, of whom 5 members shall represent the States and other local services (hereinafter called “the Employers”), and 5 members of the workers employed by the States and other local services (hereinafter called ‘the Employees’).

b) The Employers’ representatives shall be appointed as follows:-

States of Jersey	Four Representatives
The Constables of Jersey (The Constables of Jersey have confirmed that they would normally expect their representative to be the Constable of St Helier)	One Representative

c) The representatives of the Employees shall be appointed by the Transport and General Workers’ Union.

d) Each Side shall have power to appoint advisers to assist generally or on particular matters. The advisers shall be entitled to take part in discussions, but shall have no power to vote.

4. Retirement of Members

The Members of the Council shall retire on the 31st day of December in each year and shall be eligible for re-appointment.

5. Conduct of Business

The rules for the conduct of the Council’s business shall be as set out in Appendix B hereto.

6. Amendment of Constitution

Amendment of this constitution may be proposed only after notice thereof has been given to the Secretary or Joint Secretaries and circulated to the members of the Council and to each of the organisations referred to in paragraph 3. hereof at least three months before the meeting at which the proposal is to be moved.

Any proposal to amend this constitution must be approved by the majority of at least 2/3rds of the members on each Side present and voting at the meeting at which it is moved; and any amendment of paragraphs 2. and 3. hereof must receive the assent of all the organisations referred to in paragraph 3. hereof.

APPENDIX A

FUNCTIONS

The functions of the Council shall be to determine the terms and conditions of employment of the workers within its scope. It shall be permissible for the Council to take any action that falls within the scope of the foregoing general definition. Amongst the more specific objectives are:-

- a) The consideration of wages, hours and working conditions.
- b) The establishment of machinery with the object of preventing disputes and securing the speedy settlement of differences. For this purpose the Council shall appoint a Disputes Committee consisting of an equal number of representatives of the Employers' and Employees' Sides. For this purpose the members on both Sides shall constitute a panel from which the representatives will be selected to sit as and when a dispute has to be dealt with, the decision of such Committee shall not require confirmation by the Council, but the proceedings will be reported to the next appropriate meeting of the Council. The procedure for the reference and settlement of disputes shall be in accordance with Appendix C. The establishment of this machinery implies that there shall be no 'lock-out' by the Employers nor withdrawal of labour or refusal to work by the workers and that the decision of the Disputes Committee shall be binding on all parties.
- c) The collection and publication of such statistics and information as may be required.
- d) The consideration of the safety, health and welfare of the workers.
- e) The consideration of education and training.
- f) The consideration of measures for the maintenance of and improvement in working methods.

APPENDIX A1

UNION MEMBERSHIP

- a) The Council has been established for the purpose of:-
 - i) determining in a sensible manner, by agreement preferably or by independent arbitration if the necessity arises, the wages, hours and working conditions of the workers employed by the States of Jersey and the Parishes;
 - ii) preventing disputes arising on these or other relevant matters or, if they do, securing their speedy settlement without recourse to strike or lockout;
 - iii) considering all other labour matters vital to the sensible and efficient management of the States' and Parish services and undertakings and to the education, training, safety, health and welfare of the workers.
- b) These objectives can only be achieved by the States, Parishes and the workers acting through their representative organisations since it is impracticable for negotiation to take place as between individuals. Thus, the States and Parishes are represented by four representatives of the States of Jersey and one representative of the Constables of Jersey (the Constables of Jersey have confirmed that they would normally expect their representative to be the Constable of St Helier), and the workers by five members appointed by the Transport and General Workers' Union.
- c) Management are to provide applications for admission and authority for deduction of subscriptions to the Transport and General Workers' Union.
- d) Departments are to notify the Transport and General Workers' Union office and of the appointment of new employees. To ensure compliance with Data Protection Legislation, the Transport and General Workers' Union should not be advised of the name of the new employee, just that a specific post has been filled/appointed to.
- e) all workers within the scope of the council should in their own interests and in the interests of making the machinery of the council effective, take up membership of and take an active part in the activities of the union.

APPENDIX B

RULES FOR THE CONDUCT OF BUSINESS

1. Committees

The Council may appoint from its own members such committees as may be considered necessary.

Save in the case of the Disputes Committee the proceedings of which shall not require confirmation by the Council, the Council may refer particular matters to any such committee and the reports of all such committees shall be submitted to the Council for approval. Such approval may be given with or without modification.

2. Co-opted Members

The Council or any committee thereof may invite the attendance of any person whose special knowledge would be of assistance, but such persons shall not have the power to vote.

3. Chairman and Vice-Chairman

At its Annual General Meeting the Council shall appoint a Chairman and Vice-Chairman.

4. Officers

The Council shall appoint a Secretary, or Joint Secretaries, Assistant Secretary, or Joint Assistant Secretaries, and may appoint a Treasurer, Auditor and such other staff, if any, as it thinks fit.

5. Meetings

The Council shall normally meet four times per year and at such other times as maybe necessary. If so required, the Chairman shall call a special meeting of the Council. The requisition and notice summoning any special meeting shall state the nature of the business proposed to be transacted thereat and no other matters shall be discussed. A special meeting shall take place within 14 days after receipt of the requisition by the Chairman.

6. Voting

The Voting on the Council and on all committees, including the Disputes Committee, shall be by show of hands or otherwise as the Council or committee, as the case may be, shall determine. No resolution shall be regarded as carried unless it has been approved by a majority of the members present on each Side of the Council or committee as the case may be.

7. Quorum

The quorum of the Council shall be four, namely two representatives of the Employers and two representatives of the Employees. In the absence of a quorum the Chairman shall vacate the chair, and the business then under consideration shall be the first business to be discussed either at the next ordinary meeting or, if the meeting was a special meeting, at a further special meeting to be held within 14 days after the date fixed for the first special meeting. The quorum of a committee shall, subject to any directions given by the Council, be determined by the Committee.

8. Notice of Meetings

All notices of meetings of the Council and of any committee thereof shall provide full particulars of the business to be transacted thereat and shall be sent to the respective members at least seven days before the date of the meeting. Such notices shall also be sent simultaneously to each of the organisations referred to in paragraph 3. of the constitution.

9. Settlement of Differences

In the event of the Council failing to reach agreement on any matter, such matter may be referred to arbitration by the Jersey Employment Tribunal, or such other form of arbitration as the parties may determine.

10. Finance

Common expenses of the Council which shall be deemed to include the expenses of any committee thereof, but not any expenses incurred by members in attending meetings, shall be shared equally by the two Sides of the Council. Each Side shall bear its own expenses.

APPENDIX C

PROCEDURE FOR THE SETTLEMENT OF DIFFERENCES

Introduction

An employee having an issue or grievance shall in the first instance raise it with his immediate supervisor and shall have the right to have his shop steward present at that time. Every effort should be made to reach a settlement at this level.

Where the issue or grievance affects a group of employees they must immediately refer the matter to their shop steward who may proceed to take it up with the Officers of the Department concerned.

When it is considered that the above issue or grievance will lead to a dispute over terms and conditions of employment, the following procedure shall apply with a view to the consideration and settlement of the matter in dispute.

- a) Initially, at the Departmental level, between the Chief Officer and the Departmental representative(s) of the employees.
- b) Thereafter, at the Employing Committee level if the first stage has failed to produce agreement.
- c) Thereafter, on continued failure to reach agreement at Joint Secretaries or their nominees, at the level of the Manual Workers' Joint Council in consultation with the Employing Committee and the Chief Officer and Departmental representative(s) of the employees.
- d) Thereafter, in the event of still further failure to agree, before the Disputes' Committee of the Council.

The procedure is set out in further detail in the following paragraphs:-

Departmental Level

- a) The Departmental representative of the employees will report the existence of the difference or dispute, or circumstances likely to give rise to dispute to the Chief Officer and request an interview for consultation. The report will normally be in writing with a full indication of the circumstances and the question at issue. Where circumstances so require, the report may be made orally.
- b) The Chief Officer or in appropriate circumstances, his representative will, after examination of the representation, consult with the Departmental representative with a view to resolving the matter.

Employing Committee Level

- c) Where the initial steps have failed to produce a settlement of the dispute, the matter will be referred to the Employing Committee for consideration at the next appropriate meeting, or at a special meeting if the circumstances justify.

At such meeting the employees shall be entitled to be represented by the Jersey Official of the Union or his nominee accompanied, if desired, by the Union's Departmental representative.

Disputes Committee

- d) Where reference to the Employing Committee fails to produce a settlement the matter shall be referred to the Joint Secretaries for reference to the Disputes Committee of the Council. The Joint Secretaries shall first consider the circumstances as reported and if they deem it appropriate, endeavour to use their good offices to secure a settlement.
- e) If the Joint Secretaries are unable to secure a settlement the matter shall be considered by the Disputes Committee whose decision shall be final and binding except where in the event of the Disputes Committee failing to reach agreement the matter may by agreement between the Employers' Side and the Employees' Side of the Council be referred to the Industrial Disputes Tribunal or such other form of arbitration as they may determine, on terms of reference to be agreed by the two sides.
- f) The Disputes Committee shall comprise:-
 - i) Two members of the Employers' Side of the Council
 - ii) Two members of the Employees' Side of the Council

The Chair of the Disputes Committee will be drawn from one of the two members of the Disputes Committee of the Side that holds the Chair of the full MWJC in that year.

- g) The proceedings of the Disputes Committee shall be reported to the next appropriate meeting of the Council.

Industrial Action

- h) In consideration of the foregoing procedure the Employers' and Employees' Sides agree that there shall be no industrial action, either before or at any stage of the procedure for the settlement of disputes and that they shall use their best endeavours to prevent such action or to bring it to an end if it occurs.

Status Quo

- i) **In the event of any difference arising which cannot immediately be disposed of, then whatever practice or agreement existed prior to the difference shall continue to operate pending a settlement or until the agreed procedure has been exhausted.**
- j) It shall be the spirit and intention of both Department and Union that there will be no undue or unreasonable delay in progressing issues through the above procedure.