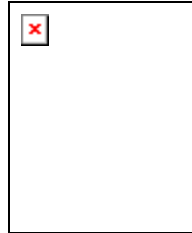


# STATES OF JERSEY



## **DRAFT EMPLOYMENT (AMENDMENT No. 5) (JERSEY) LAW 200- (P.27/2009): AMENDMENT (P.27/2009 Amd.) – COMMENTS**

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**Presented to the States on 31st March 2009  
by the Health, Social Security and Housing Scrutiny Panel**

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**STATES GREFFE**

## COMMENTS

The Health, Social Security and Housing Scrutiny Panel (HSSH) are supportive of the approach taken to the issue of redundancy payments by the Minister for Social Security in his proposed amendment to the Employment (Jersey) Law 2003: [P.27/2009: Draft Employment \(Amendment No. 5\) \(Jersey\) Law 200](#). The Panel believe that it will put in place a simple structure that provides the basis for a practical way forward.

We also support the Minister's forward-thinking approach to the removal of any limitation related to pensionable age, and the removal of any lower limit on working hours which may have been potentially discriminatory to women employees.

Whilst we approve of the proposed single scale for payments based upon length of service, with no age-related weighting, we note that this does diverge from the U.K. system. As such, we recommend that comparisons be made over time to ensure that local people are not disadvantaged. However, the Minister's proposal is demonstrably simpler and it is possible that the absence of a cap on the number of years' service may balance out the absence of age-related weighting for older workers.

We accept the recommendation of the Employment Forum that the minimum qualification period for redundancy payments should be 2 years in line with the U.K. In addition, we accept that exception should not be made for shorter fixed-term contracts as the law on unfair dismissal provides a sufficient protection against abuse.

However, the Panel believes that the Minister for Social Security's proposals are deficient in 2 areas and therefore support Deputy Southern's proposed amendments –

### “1 PAGE 23, ARTICLE 5 –

In the inserted Article 60F –

(a) for paragraph (1) there shall be substituted the following paragraph –

“(1) Where an employer is proposing to dismiss as redundant at one establishment within a period of 90 days or less –

- (a) 2 or more employees of a description in respect of which a trade union is registered under the Employment Relations (Jersey) Law 2007 and recognized in accordance with a code of practice approved under Article 25 of that Law; or
- (b) 6 or more employees of a description in respect of which there is no trade union as described in sub-paragraph (a),

the employer shall consult about the dismissals all the persons who are the appropriate representatives of the affected employees;”

(b) for paragraph (3)(a) there shall be substituted the following sub-paragraph –

“(a) if the employees fall within the description in paragraph (1)(a), representatives of the trade union; or”.

The Panel believes that the Minister for Social Security has wrongly ignored the recommendations of the Employment Forum in this instance. The Employment Forum recognised best practice and relevant advice from the Jersey Advisory Conciliatory Service in making their recommendation, and the Panel can see no reason for the Minister to disagree. The Panel believes that where a union is recognised within the structure of the current Employment Relations Laws, its right to recognition and representation should be recognised and respected. As such, the Panel fully supports Deputy Southern's amendment.

### “2 PAGE 31, ARTICLE 5 –

In the inserted Article 60N(1) for the number “21” there shall be substituted the number “6”.

The Panel considers the U.K. comparison put forward by the Employment Forum to be inappropriate to the Jersey context as only 7% of Jersey employers employ 21 or more workers. As such, occurrences of redundancies of over 21 employees will likely be rare. The Panel therefore supports Deputy Southern's amendment as, in effect, the Minister for Social Security's proposals deny the right to collective consultation to all but a tiny minority, and thereby disproportionately restricts that right.