

STATES OF JERSEY



DRAFT EMPLOYMENT TRIBUNAL (AMENDMENT No. 3) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 29th May 2012
by the Minister for Social Security**

STATES GREFFE



Jersey

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REPORT

Background

Since the Jersey Employment Tribunal was set up in 2005, its workload has increased. In addition, the Tribunal must prepare for the proposed Discrimination Law by ensuring that the service is equipped to cope with a further increase in applications and diversity.

Having taken over the responsibility for the administration of the Employment Tribunal in 2011, the Judicial Greffe has put in place a service pledge that all complaints are to be processed within 6 months of receipt. The Judicial Greffe is committed to ensuring that the Employment Tribunal functions in an efficient and economical manner, making full use of its facilities.

The proposed amendments

The main purpose of the proposed amendment is to make the following changes:

Up to 5 Deputy Chairmen – The Regulations currently provide that one Chairman, one Deputy Chairman and one or more Acting Chairmen may be appointed to the Employment Tribunal. The amendment would enable the appointment of at least one, and not more than 5, Deputy Chairmen, all of whom must hold a qualification in law, and would be able to perform the functions of the Chairman where the Chairman is unable to do so. A full Jersey Appointments Commission recruitment process would be required prior to the appointment of any Deputy Chairman. The availability of a ‘pool’ of Deputy Chairmen with differing and complementary areas of knowledge and experience would enable the Tribunal to operate in a more efficient manner.

Acting Chairman – The Regulations currently permit the Minister, in consultation with the Jersey Appointments Commission, to appoint one or more legally qualified Acting Chairmen who can be appointed where both the Chairman and the Deputy Chairman are unable to perform their functions. This provision was intended to deal with risks, such as where both Chairman and Deputy Chairman become unavailable at short notice, or are both conflicted. Under the proposed amendment, up to 5 Deputy Chairmen would be available in such circumstances and so the provision for Acting Chairman becomes unnecessary.

Annual Report – The Regulations currently require an annual report on the activities of the Employment Tribunal to be presented to the States within 4 months of the year to which it relates (currently the year 1st July – 30th June). The amendment would provide that the report must be prepared by the Tribunal Chairman within 4 months of the end of each financial year, bringing the annual reporting requirements and reporting period in line with standard practice for other similar bodies.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of these Draft Regulations.

Explanatory Note

Under the Employment Tribunal (Jersey) Regulations 2005 (the “2005 Regulations”) the membership of the Jersey Employment Tribunal consists of a Chairman and a Deputy Chairman, both of whom must hold a qualification in law, not fewer than 2 and not more than 8 members with knowledge or experience of or interest in trade unions or matters relating to employees generally, and not fewer than 2 and not more than 8 members with knowledge or experience of or interest in employers’ associations or matters relating to employers generally. The 2005 Regulations also enable a person to be appointed as an Acting Chairman by the Minister where neither the Chairman nor the Deputy Chairman is able to perform the functions of the Chairman. Such an appointment may only be made after consultation with the Jersey Appointments Commission and the instrument of appointment must specify the circumstances in which the person may act as Chairman.

These Regulations remove the Minister’s power to appoint an Acting Chairman. Instead the States are able to appoint up to 5 Deputy Chairmen, all of whom must hold a qualification in law, and any of whom would be able to perform the functions of the Chairman where the Chairman is unable to do so.

Finally, these Regulations amend the time by which the annual report on the activities of the tribunal must be completed, so that it must now be completed within 4 months of the end of each financial year.



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Arrangement

Regulation

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Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 82 and 104 of the Employment (Jersey) Law 2003¹, have made the following Regulations –

1 Interpretation

In these Regulations “principal Regulations” means the Employment Tribunal (Jersey) Regulations 2005².

2 Regulation 1 amended

In Regulation 1 of the principal Regulations –

- (a) the definition “Acting Chairman” is omitted;
- (b) in the definition “Deputy Chairman” for the words “as Deputy Chairman” there are substituted the words “as a Deputy Chairman”;
- (c) in the definition “member” for the words “the Deputy Chairman” there are substituted the words “a Deputy Chairman”.

3 Regulation 2 amended

For Regulation 2(b) of the principal Regulations there is substituted the following paragraph –

- “(b) at least 1 and not more than 5 Deputy Chairmen, being persons who hold a qualification in law;”.

4 Regulation 3A revoked

Regulation 3A of the principal Regulations is revoked.

5 Regulation 5 amended

In Regulation 5 of the principal Regulations –

- (a) in paragraph (2), for the words “, the Deputy Chairman or an Acting Chairman” there are substituted the words “or a Deputy Chairman”;
- (b) in paragraph (3)(d)(i) the words “or an Acting Chairman” are deleted;
- (c) in paragraph (5) the words “3A or” are omitted.

6 Regulation 6 amended

For Regulation 6(1)(b) of the principal Regulations there is substituted the following sub-paragraph –

“(b) in the case of a member who is a Deputy Chairman, £552;”.

7 Regulation 7 amended

In Regulation 7(1) of the principal Regulations for the words “or Deputy Chairman” there are substituted the words “or a Deputy Chairman”.

8 Regulation 8 amended

In Regulation 8 of the principal Regulations –

- (a) for paragraph (2)(a) there is substituted the following sub-paragraph –
 - “(a) the Chairman, or a Deputy Chairman, as the presiding member;”;
- (b) for paragraph (4) there is substituted the following paragraph –
 - “(4) In doing so he or she shall ensure, so far as is reasonably practicable –
 - (a) that the members to whom Regulation 2(b) refers are chosen having regard to the specialist legal expertise that may be required for the case, but are otherwise chosen in rotation;
 - (b) that the members to whom Regulation 2(c) refers are chosen in rotation; and
 - (c) that the members to whom Regulation 2(d) refers are also chosen in rotation.”.

9 Regulation 9 amended

In Regulation 9 of the principal Regulations for the words “7(2) or Regulation 8(3), the Deputy Chairman may” there are substituted the words “7(2), 8(3) or 10(a), the Judicial Greffier shall appoint a Deputy Chairman to”.

10 Regulation 10 amended

In Regulation 10 of the principal Regulations –

- (a) for paragraph (1) there is substituted the following paragraph –

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- “(1) The Chairman shall prepare an annual report on the activities of the Tribunal and submit it to the Minister within 4 months after the end of each financial year.”;
- (b) in paragraph (2) for the words “within 4 months after the end of the year to which the report relates” there are substituted the words “at the first reasonable opportunity”.

11 Citation and commencement

These Regulations may be cited as the Employment Tribunal (Amendment No. 3) (Jersey) Regulations 201- and shall come into force 7 days after they are made.

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- ¹ *chapter 05.255*
² *chapter 05.255.70*