

# STATES OF JERSEY



## **DRAFT EMPLOYMENT (AMENDMENT No. 11) (JERSEY) LAW 201- (P.100/2019): THIRD AMENDMENT (P.100/2019 Amd.(3)) – COMMENTS**

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**Presented to the States on 18th October 2019  
by the Council of Ministers**

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**STATES GREFFE**

## COMMENTS

### **EXCEPTION FOR NON-GST REGISTERED BUSINESSES** **(P.100/2019 Amd.(3)(re-issue))**

The Council of Ministers does not support the proposed amendment to exempt employers that are not registered for the purposes of the [Goods and Services Tax \(Jersey\) Law 2007](#) (the “GST Law”).

**This amendment would be a significant backward step in employment rights. For employees who work in a business that is not GST registered, the existing family friendly employment rights would be removed entirely.**

1. Mothers, father/partners and adopters would not be entitled to take parental leave of any duration, with no right to return to the same job or protection against dismissal.
2. The existing periods of paid leave would be removed for all parents, including the paid compulsory maternity leave period which provides a fundamental protection for women following childbirth.
3. The birth mother and father/partner would not be entitled to time off work to attend antenatal appointments.

This amendment is similar to the amendment from the Connétable of St. Mary ([P.100/2019 Amd.\(2\)\(re-issue\)](#)), and so it gives rise to similar concerns. However, this amendment goes further in the removal of existing employment rights, in that a new mother would have no statutory right to any leave at all following childbirth. This returns us to the position in 2014 when Jersey was one of only 2 jurisdictions in the world that did not provide statutory maternity leave.

By contrast and subject to States’ approval, employees of business that are registered for GST purposes would be entitled to extended employment rights, including –

- up to 52 weeks of parental leave for each parent
- up to 6 weeks of paid leave for each parent
- breastfeeding breaks and facilities
- time off work to attend antenatal or pre-adoption appointments.

Businesses have reported a very tight labour market. Limited employment rights would mean that employees are less likely to be attracted to work for non-GST registered businesses, and existing employees might seek alternative employment that offers better employment rights. The Council of Ministers is concerned that this amendment could affect the ability of such businesses to recruit and retain staff.

### **GST registration**

The Deputy’s report states that his amendment is intended to limit the application of the new rights for employees to help small, family-run businesses, and that the GST register is the recognised way of identifying these smaller companies.

The Council of Ministers considers that the amendment perhaps exempts a much wider group of employers from this part of the Employment Law than the Deputy intended.

An employer may not need to be registered because the value of taxable supplies made by the person is less than £300,000. However, a person might also not need to be registered because they are –

- granted an exemption under Schedule 1 of the GST Law because they only make exempt supplies (e.g. property companies, export businesses and charities); or
- an International Services Entity (“ISE”) as defined in Part 12 of the GST Law.

An ISE is a business that mainly serves non-residents of Jersey, including banks, trust company businesses and fund services. Becoming an ISE is optional. These businesses are exempted from GST and do not need to register for GST in the normal way. The extensive list of ISEs can be found on the taxes office website<sup>1</sup>, which includes large businesses with a high turnover, including most finance companies in Jersey.

Even if this matter were addressed, the amendment would create a significant technical issue, as GST registration is based on a monthly timetable and a business might move in and out of the limit for registration purposes (taxable supplies of £300,000 or more in the preceding 12 months).

The Deputy’s report refers to non-GST registered businesses that are ‘one-man bands’. To clarify, those businesses do not employ any staff, and so there would be no obligations under the Employment Law.

In addition to the above, the Council of Ministers cannot support the proposed exception for the following reasons –

1. **Protecting children** – The children of parents who work for non-GST registered businesses do not deserve a lower level of protection than the children of parents who work for GST registered companies. The effect on employees who suffer a detriment, dismissal or discrimination is the same.
2. **Evidence of difficulties** – There is no evidence that the existing legislation, which came into force in 2015 and was extended in 2018, has caused difficulties for businesses. The Jersey Advisory and Conciliation Service will continue to provide proactive support targeted to small businesses through its outreach service.
3. **Confusing** – Employers and employees would be uncertain as to their entitlements and responsibilities, and would not be able to plan periods of leave. For example, a mother who is taking a period of maternity leave under the existing Law could immediately lose those rights when the amendment to the Law comes into force.

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<sup>1</sup> Public list of ISEs not registered for GST purposes:  
<https://www.gov.je/SiteCollectionDocuments/Tax%20and%20your%20money/ID%20ISEListi ng.pdf>

**Key statistics**

933 births in Jersey in 2018<sup>2</sup>

794 maternity allowance claims in 2018<sup>3</sup>

62,440 jobs<sup>4</sup>

Less than 1.5% of women working in Jersey had a baby in 2018. With potentially 2 parents for each baby, less than 3% of employees in Jersey would have become entitled to take parental leave in 2018.

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<sup>2</sup> [R.21/2019](#)

<sup>3</sup> [www.gov.je](http://www.gov.je) open data

<sup>4</sup> [Labour Market Report for June 2019](#)