

# STATES OF JERSEY



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

---

**Presented to the States on 17th April 2025  
by the Health and Social Security Scrutiny Panel**

---

**STATES GREFFE**

## COMMENTS

### Background

On 6<sup>th</sup> November 2024, [P.78/2024 – Draft Employment and Discrimination \(Jersey\) Amendment Law 202-](#) (hereafter referred to as the “draft amendment”) was lodged with the States Assembly by the Minister for Social Security (“the Minister”). This Law, if passed, will amend the Employment (Jersey) Law 2003 (the “Employment Law”) and the Discrimination (Jersey) Law 2013 (the “Discrimination Law”).

The amendments were in response to the Jersey Employment Forum’s consultation<sup>1</sup>, and subsequent report and recommendations on Jersey’s compensation awards regime presented to the Minister for Social Security in June 2024. Compensation awards are made by the Jersey Employment and Discrimination Tribunal in cases where an employee’s employment or discrimination rights have been breached by their employer.

Further to [Comments](#) which were unanimously approved and presented by the Health and Social Security Scrutiny Panel on the 16<sup>th</sup> January, and the Minister’s subsequent deferral of the draft amendment, the Panel has questioned the Minister on the proposal and reviewed the draft amendment along with the Jersey Employment Forum’s Consultation Exercise on the Levels of Compensation Awards for Breaches of the Employment and Discrimination Laws, and made [recommendations](#) to the Minister for Social Security for action by the end of 2025.

Deputy Sir Philip Bailhache has dissented from these Comments.

The Jersey Employment Forum, an independent and apolitical body comprising equal representation from employers, employees, and independent members, was tasked with reviewing Jersey’s compensation awards regime. The consultation process included a comparison with other jurisdictions, such as Guernsey, the Isle of Man, Ireland, and the United Kingdom. This comparative analysis revealed that Jersey’s existing compensation framework was relatively straightforward but had not kept pace with inflation and wage levels, rendering it inadequate. The Forum’s recommendations aimed to address these shortcomings by proposing significant increases to compensation caps, thereby encouraging employers to take discrimination issues more seriously and provide better support to vulnerable employees.

### Public Consultation Process

The Jersey Employment Forum conducted a public consultation from 27<sup>th</sup> November 2023 to 31<sup>st</sup> January 2024, inviting stakeholders, including employers, employees, legal professionals, and the general public, to provide feedback on the current compensation awards system and potential reforms. The Panel feels that this was the opportunity for stakeholders to contribute and the Forum considered the views received during its consultation exercise.

---

<sup>1</sup> [Employment Forum report and recommendations on the compensation awards regime in Jersey.pdf](#)

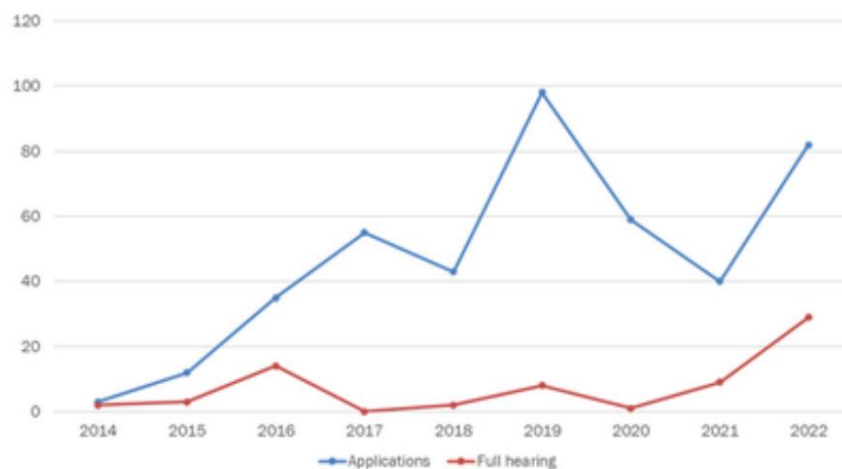
## Effectiveness of the Law and Current Compensation Levels

The Panel notes that in addition to those who contributed to the Jersey Employment Forum's 2024 consultation, the Jersey Community Relations Trust (JCRT), stated in its Annual Review 2023-24<sup>2</sup>;

*'...that the introduction of the Discrimination (Jersey) Law 2013 has been positive, and has created a platform for healthy conversations, especially in workplaces. It is a vital starting point, therefore enabling a cultural shift'.*

The JCRT felt the legislation has served to bring Jersey up to broadly the same standard as other modern jurisdictions, and to meet Jersey's obligations under international conventions.

However, since 2014, relatively few applications to the Jersey Employment & Discrimination Tribunal have progressed to a full hearing. For example, in 2022, the Employment Tribunal received 82 applications, of which only 33 progressed to a full hearing.



Graph: the blue line indicates the number of discrimination applications to the Tribunal. The red line indicates the number of these applications that proceed to a full hearing.<sup>3</sup>

## Current Compensation Levels

JCRT reference that the current maximum award at Jersey's tribunal of £10,000 results in most cases being settled out of court by employers making the claimant an offer, and often on the condition that a non-disclosure agreement is in place. This provides little incentive for an employer to comply with the Law, nor take the learning that a case

---

<sup>2</sup> [JCRT Annual Review 2023](#)

<sup>3</sup> [JCRT Annual Review 2023](#)

heard at Tribunal might encourage them to do. Effectively it means that the Law, as it stands, does not always achieve full justice for the claimant.

Other views received by the Jersey Employment Forum during its consultation exercise suggested that these figures are not of a sufficient level to encourage employers to take seriously claims of discrimination in the workplace and the proposed increase would effectively address this:

*'... this might lead to better and more frequent discrimination training and/or employers taking a firmer internal stance in relation to discriminatory behaviour.'*<sup>4</sup>

Other organisations supportive of the amendment include [Liberate](#) with the Chief Executive Officer stating that:

*'This is an important legislative improvement for those who are at risk of experiencing discrimination. There have been some concerns raised about the potential impact on smaller businesses and charities. We would strongly suggest, as others have, that rather than seeking to reduce the cap and disenfranchise people who experience discrimination from having a more appropriate level of compensation, relevant support is offered to help those employers understand their requirements under the discrimination law and access training to better improve inclusivity and remove barriers within their workplaces.'*<sup>5</sup>

Kate Wright, Founder of [The Diversity Network](#), stated:

*'Supporting Deputy Feltham's proposition, and the Employment Forum's recommendations, is an opportunity for our Council of Ministers and States Assembly Members to send a powerful message that in Jersey we value human beings above unethical employers, and we want a modern and thriving business community.'*<sup>6</sup>

### **Value of Compensation Cap**

In reaching its conclusion in relation to a cap of £50,000 or 52 weeks' pay, whichever is the greater, the Forum bore in mind that the average annual salary in Jersey at the time of the consultation, was a little short of £49,000. Including 52 weeks' pay as an alternative in the compensation element aimed to ensure the ability of the Tribunal to make awards of up to a full year's pay for average earners. Introducing the 52 weeks' pay element would also maintain a reasonably high cap for lower income earners and the ability for high earners to be compensated beyond the cap where it is financially warranted. The Forum also recommended that legislation is introduced to provide that these limits are reviewed every three years to reflect changes in the value of a week's pay as set out in the Employment Law and/or changes in policy regarding the uncapped option.

The Jersey Employment Forum recognised that discrimination cases often involve serious emotional harm, and higher compensation would better reflect the seriousness

---

<sup>4</sup> [Employment Forum report and recommendations on the compensation awards regime in Jersey.pdf](#)

<sup>5</sup> [Employer concerns about impact of discrimination compensation rise - Bailiwick Express News Jersey](#)

<sup>6</sup> [Employer concerns about impact of discrimination compensation rise - Bailiwick Express News Jersey](#)

and long-term effects discrimination can have on individuals' lives, potentially including future employment. The Tribunal therefore should have the power to mark particularly serious examples of unacceptable behaviours in the workplace with a much higher maximum award.

### **Comparative Analysis of Compensation Caps**

In its deliberations, the Forum considered the compensation structures of several jurisdictions:

- United Kingdom: Operates an uncapped system for discrimination claims, allowing tribunals to award compensation commensurate with the claimant's losses and suffering.
- Ireland: Implements a cap of two years' pay for such claims.
- Guernsey and the Isle of Man: Feature different capped systems, each tailored to their respective legal frameworks and economic contexts.

The Jersey Employment Forum concluded that moving from Jersey's existing £10,000 cap to an uncapped system would be too abrupt and instead recommended to increase the cap on compensation for discrimination claims to £50,000 or 52 weeks' pay (whichever is greater), with up to £30,000 available for hurt and distress. These adjustments aim to balance the need for more substantial compensation with the necessity of allowing employers time to adapt their internal processes accordingly.

To understand the real-term implications of this recommendation, it is essential to compare the cost of living and average wages in Jersey with those in the jurisdictions used as comparisons in the Forum's consultation, namely Guernsey, the Isle of Man, Ireland, and the United Kingdom.

Given Jersey's high cost of living and average wage levels, the proposed increase in the compensation cap for discrimination claims is significant. Aligning the cap with 52 weeks' pay ensures that compensation reflects the claimant's actual earnings, providing a tailored approach that considers individual circumstances. This structure offers meaningful redress, especially in a high-cost environment like Jersey, where financial losses can be substantial.

The provision of up to £30,000 for hurt and distress acknowledges the profound impact discrimination can have beyond financial loss. This amount is substantial within Jersey's economic context and serves as a deterrent against discriminatory practices. In comparison to other jurisdictions, Jersey's proposed compensation framework appears to be more generous, but reflects its unique economic landscape. For instance, the Isle of Man and parts of the United Kingdom have lower cost of living indices and average wages, which may result in lower compensation caps.

The cost of living in Jersey is currently notably higher than in the United Kingdom across various categories:

- Overall Cost of Living: Jersey's cost of living is approximately 28.4% higher than that of the United Kingdom, excluding rent. When including rent, the difference increases to approximately 38.0%.

- **Rent Prices:** Rent in Jersey is significantly higher, with prices approximately 62.2% greater than in the United Kingdom.
- **Restaurant Prices:** Dining out in Jersey costs approximately 45.9% more than in the United Kingdom.
- **Groceries:** Grocery prices in Jersey are about 25.8% higher compared to the United Kingdom<sup>7</sup>.

These figures highlight the substantial differences in living expenses between Jersey and the United Kingdom, with Jersey being more expensive across these categories. Therefore, the Jersey Employment Forum's recommendations aim to provide fair and adequate compensation that aligns with the Island's high cost of living and wage levels, ensuring that victims of discrimination receive appropriate redress.

### **Availability of Information**

**The Jersey Advisory and Conciliation Service (JACS):** serves as a primary resource for information, offering detailed guidance on both laws. Their website provides summaries and explanations tailored to assist employers and employees in understanding legal obligations and rights. For instance, JACS offers guidelines on the Employment (Jersey) Law 2003, covering topics like unfair dismissal and termination procedures. Regarding the Discrimination (Jersey) Law 2013, JACS provides insights into protected characteristics and employer responsibilities.

**Jersey Legal Information Board (JLIB):** maintains updated versions of both laws, ensuring that users have access to the current legal texts.

**Citizens Advice Jersey:** This organisation provides guidance on discrimination, detailing protected characteristics and offering practical resources for understanding the Discrimination Law.

**Legal and Human Resource Firms:** local firms have published articles and guides on employment and discrimination laws. For example, BCR Law has produced insights into fundamental employee rights in Jersey, and HR Now offers summaries to help employers understand discrimination laws.

**Government of Jersey:** The official Government website offers an overview of employment laws, highlighting key employee rights such as minimum wage, rest periods, and parental leave.

However there is no dedicated area for relevant guidance, with much of the information spread across different areas of the site, some contained in an area of the website called [Moving to Jersey: Work](#) with other separate areas providing information for employers on disability and employment: [Disability and employment: an employer's guide](#) based on a good practice guide for employers developed by the Jersey Employment Trust (JET) in partnership with the States of Jersey in 2019.

### **Improvement in Information and Support Services**

---

<sup>7</sup> [Cost Of Living Comparison Between United Kingdom And Jersey](#)

The Employment (Jersey) Law 2003 and the Discrimination (Jersey) Law 2013 are pivotal in defining the rights and responsibilities of employers and employees in Jersey. Access to clear and comprehensive guidance on these laws is essential for ensuring compliance and fostering fair workplace practices.

In terms of training and education, the Jersey Employment Forum has highlighted the services that JACS offers, both in terms of the conciliation and settlement of claims and the provision of advice to both employees and employers. These services include advice on work-related complaints and the Forum considers that there can be little excuse for employers not to take advantage of the services that JACS offers. Employers must also have effective workplace policies in place and a determination to reduce discrimination in the workplace.

JACS provides practical guidance notes that break down complex legal provisions into understandable terms. However, while these resources are valuable, they may not cover every specific scenario encountered by employers or employees. In such cases, seeking personalised legal advice is advisable to address unique circumstances.

The Minister for Social Security has stated:

*'I am fully committed to ensuring that employers and employees have access to good quality information and training on employment and discrimination matters. These are principally provided through JACS and my team will continue to work with and support JACS in this area'<sup>8</sup>.*

However, the Government website does not provide clarification of the relationship between Government and JACS. The service is not referenced or signposted in a formal way, making it difficult for any employee or employer seeking support or information, to know that this is the primary service that provides information on behalf of Government.

The need for improved information was echoed by respondents in the Jersey Employment Forum's consultation, who emphasised the need for better education in workplace practices and understanding of the discrimination regime in Jersey, given that discrimination legislation in the Island is relatively recent in the employment context<sup>9</sup>.

To enhance the effectiveness of these legislative changes and ensure both employers and employees are well-informed and supported, the Panel recommends the following to the Minister for Social Security for action by the end of 2025 and will request regular updates:

1. **Formalisation of Relationships with Advisory Services:** Establish formal partnerships between the government and commissioned services such as the Jersey Advisory and Conciliation Service (JACS) and Citizens Advice Jersey (CAJ). This collaboration will ensure consistent and reliable advice is available to both employers and employees regarding their rights and obligations under the amended laws. As per the Comptroller and Auditor

---

<sup>8</sup> [2025-03-28-MSS-to-HSSP-re-Draft-Employment-and-Discrimination-\(Jersey\)-Amendment-Law.pdf](#)

<sup>9</sup> [Employment Forum report and recommendations on the compensation awards regime in Jersey.pdf](#)

General's report [\*R.127/2024 – Oversight of Arm's Length Bodies\*](#), both JACS and CAJ are identified as Arm's Length Organisations (ALOs) under the Public Finances Manual due to their receipt of substantial government funding. However, the report recommends refining the definition of Arm's Length Bodies (ALBs). Under this revised classification, entities like JACS and CAJ, which are primarily grant recipients, would be excluded from the ALB category. Instead, they would fall under the governance frameworks applicable to grant-funded organisations, focusing on grant agreements and performance monitoring which would aid in assessing the quality and impact of the information they provide on behalf of Government.

2. **Enhancement of Educational Resources:** Increase and improve the easy availability of educational materials and guidance on the Government of Jersey website and signpost the external support services more effectively. This initiative should focus on clarifying the provisions of the Employment and Discrimination Laws, thereby promoting compliance and reducing instances of unintentional breaches plus assuaging any concerns about the cost of increased training and legal advice if comprehensive and easily accessible guidance was clearly signposted.
3. **Enhanced Guidance on Tribunal Processes:** Providing clearer information on the tribunal process, including the criteria for awarding costs and handling vexatious claims, could help manage employer concerns and deter frivolous claims.
4. **Increased Accessibility to Legal Support:** Offering more robust legal assistance, particularly for lower-income individuals, would promote fairer outcomes and ensure that all claimants can effectively navigate the legal system.

By implementing these recommendations, the Government can foster a more informed workforce and employer base, ultimately contributing to a fairer and more equitable working environment in Jersey.

## Conclusion

The Panel affirms that the consultation conducted by the Jersey Employment Forum was both comprehensive and robust, and therefore the Minister's rationale is well-founded and supports the draft amendment.

Whilst the Panel would have appreciated further information on the stakeholder liaison undertaken by the Minister on this issue, the Panel understands that the Minister has discussed the amendment, and specifically the proposal to increase the maximum award for employment-related discrimination claims, with a number of representative organisations and individuals, who have expressed their support for the proposal, and feels that this is sufficient to endorse the proposal's rationale.

## Scrutiny of the Developing Workstream

The Panel look forward to receiving further information on the Minister's plans for the review into the Employment and Discrimination Tribunal's Rules and Regulations in 2025, and the other key recommendations aimed at refining the tribunal's operations and addressing concerns about costs and vexatious claims. Particularly, the power of the Tribunal to award costs in vexatious cases, which would go some way to assuage any concerns around the financial impact of employers that these changes could lead to

unsustainable financial risks and an uptick in unfounded claims. The Minister accepted these recommendations and has confirmed commitment to implementing them through legislative amendments.

Procedural changes, such as the anonymisation of judgments and the introduction of a limited costs regime, are scheduled to be part of the broader review of the tribunal's rules and regulations planned for 2025. The Minister has advised that this work is due to be completed imminently<sup>10</sup>, and the Panel will scrutinise this accordingly.

These developments reflect ongoing efforts to enhance the fairness and efficiency of Jersey's Employment and Discrimination Tribunal, addressing both the rights of employees and the responsibilities of employers.

Statement under Standing Order 37A [Presentation of a Comment relating to a proposition]

---

Due to the timing of the debate and administrative requirements related to the preparation and approval of this comment, there was a delay in presenting the final comment to the Greffier for presentation to the States Assembly. The Minister has been informed of the delay.

---

<sup>10</sup> [2025-03-28-MSS-to-HSSP-re-Draft-Employment-and-Discrimination-\(Jersey\)-Amendment-Law.pdf](#)