



Jersey

**EMPLOYMENT TRIBUNAL (JERSEY)  
REGULATIONS 2005**

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Jersey

## EMPLOYMENT TRIBUNAL (JERSEY) REGULATIONS 2005

### Arrangement

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Jersey

## EMPLOYMENT TRIBUNAL (JERSEY) REGULATIONS 2005<sup>1</sup>

**THE STATES**, in pursuance of Articles 82 and 104 of the Employment (Jersey) Law 2003<sup>2</sup>, have made the following Regulations –

Commencement [[see endnotes](#)]

### **1 Interpretation**

In these Regulations, unless the context otherwise requires –

“Chairman” means a member who under these Regulations is appointed to office as Chairman of the Tribunal;

“Deputy Chairman” means a member who under these Regulations is appointed to office as a Deputy Chairman of the Tribunal;

“Jersey Appointments Commission” means the Commission established by Article 17 of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>3</sup>;

“member” means the Chairman, a Deputy Chairman or any other member of the Tribunal;

“Minister” means the Minister for Social Security.<sup>4</sup>

### **2 The Jersey Employment Tribunal**

The Jersey Employment Tribunal shall consist of the following members –

- (a) a Chairman, being a person who holds a qualification in law;
- (b) at least 1 and not more than 5 Deputy Chairmen, being persons who hold a qualification in law;
- (c) not fewer than 2 or more than 8 other members, being persons with knowledge or experience of or interest in trade unions or matters relating to employees generally; and

- (d) not fewer than 2 or more than 8 other members, being persons with knowledge or experience of or interest in employers' associations or matters relating to employers generally.<sup>5</sup>

### **3 Appointment of members<sup>6</sup>**

- (1) The recruitment of members shall be overseen by, and conducted in accordance with the guidelines produced by, the Jersey Appointments Commission.
- (2) The members of the Tribunal shall be appointed by the States on the recommendation of the Minister after consultation with the Jersey Appointments Commission.

### **3A <sup>7</sup>**

### **4 Term of office of members<sup>8</sup>**

- (1) A member's term of office shall be such period, not exceeding 5 years, as the States specify when appointing the member.
- (2) The Minister may, upon the written request of a member and after consultation with the Jersey Appointments Commission, extend the member's initial term of office by re-appointing the member to the same office for a second term not exceeding 5 years.
- (3) Regulation 3 shall not apply in respect of such a re-appointment.
- (4) However, nothing in paragraph (2) or (3) shall prevent a re-appointment from being made in accordance with Regulation 3.
- (5) A member may continue in office after his or her term of office has expired, so long as the continuation is only for the purpose of completing any proceedings that the member began to hear before that expiry.

### **5 Termination of office**

- (1) A member of the Tribunal shall cease to hold office on resigning, in writing delivered to the Minister.
- (2) The Chairman or a Deputy Chairman shall cease to hold office if he or she ceases to hold a qualification in law.<sup>9</sup>
- (3) Any member of the Tribunal shall cease to hold office –
  - (a) on becoming bankrupt;
  - (b) on the appointment of a curator of the member's property and affairs under the Mental Health (Jersey) Law 1969<sup>10</sup>;
  - (c) on being received into guardianship under the Mental Health (Jersey) Law 1969;
  - (d) if –
    - (i) in the case of a member that is the Chairman, without the consent of the Minister, or

- (ii) in the case of any other member, without the consent of the Chairman,  
the member has, for a continuous period of more than 6 months, been absent from any meetings of the Tribunal and unavailable to perform his or her functions in relation to the Tribunal when it was constituted in accordance with Regulation 8; or
- (e) on being removed from office by the Royal Court on either of the following grounds proved to the satisfaction of that Court –
  - (i) that he or she has neglected his or her duties in relation to the Tribunal, or
  - (ii) misconduct.<sup>11</sup>
- (4) A member of the Tribunal shall not be removed from office for any other reason.
- (5) This Regulation shall have effect despite anything in Regulation 4.<sup>12</sup>

## **6 Remuneration of members<sup>13</sup>**

- (1) A member of the Tribunal shall be paid remuneration at the following rate for each day or part of a day on which he or she sits –
  - (a) if the member is the Chairman, £736;
  - (b) in the case of a member who is a Deputy Chairman, £552;
  - (c) in the case of any other member, £97.<sup>14</sup>
- (2) The members of the Tribunal shall also be reimbursed such reasonable expenses as the Minister may determine.

## **7 Sittings before single adjudicator**

- (1) In proceedings before the Tribunal relating to an individual employment dispute one member, being the Chairman or a Deputy Chairman, shall constitute the Tribunal.<sup>15</sup>
- (2) However, if the Chairman thinks it is desirable to do so, he or she may direct that in proceedings relating to a particular individual employment dispute the Tribunal shall be constituted in accordance with Regulation 8.<sup>16</sup>

## **8 Sittings before 3 adjudicators**

- (1) This Regulation applies –
  - (a) to proceedings before the Tribunal in respect of which the Chairman has given a direction under Regulation 7(2); and
  - (b) to any proceedings before the Tribunal to which Regulation 7 does not apply.
- (2) In any proceedings before the Tribunal to which this Regulation applies 3 members, consisting of –
  - (a) the Chairman, or a Deputy Chairman, as the presiding member;

- (b) one member, being a member to whom Regulation 2(c) refers; and
  - (c) one member, being a member to whom Regulation 2(d) refers,
- shall constitute the Tribunal.<sup>17</sup>
- (3) Where the Tribunal is to be constituted in accordance with paragraph (2), the Chairman shall determine which members shall so constitute it.
  - (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.<sup>18</sup>
  - (5) In any proceedings before the Tribunal in which it is constituted in accordance with paragraph (2) –
    - (a) all 3 members shall sit; and
    - (b) the determination of any question before the Tribunal shall be according to the opinion of the majority of its members,but this paragraph is subject to paragraph (6).
  - (6) If –
    - (a) the Tribunal has commenced hearing a matter; and
    - (b) before it determines the matter a member becomes unable to continue to act,the other members may with the consent of each party to the proceedings continue to hear the matter and determine it, as long as their number is not fewer than two.

## **9 Powers of Deputy Chairman if Chairman unable to act**

If the Chairman is for any reason unable to exercise any power under Regulation 7(2), 8(3) or 10(a), the Judicial Greffier shall appoint a Deputy Chairman to exercise that power.<sup>19</sup>

## **10 Annual report**

- (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.<sup>20</sup>
- (2) The Minister shall lay a copy of the annual report before the States at the first reasonable opportunity.<sup>21</sup>

## **11 Citation**

These Regulations may be cited as the Employment Tribunal (Jersey) Regulations 2005.



**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Employment Tribunal (Jersey) Regulations 2005	R&O.20/2005	1 July 2005
States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005	R&O.133/2005	9 December 2005
Employment Tribunal (Amendment) (Jersey) Regulations 2007	R&O.22/2007	Regulations 1, 4 and 6 shall be taken to have come into force on 1 June 2006;  Regulation 5 shall be taken to have come into force on 1 November 2006;  Regulations 2 and 3, 6 February 2007
Employment Tribunal (Amendment No. 2) (Jersey) Regulations 2011	R&O.143/2011	8 November 2011
Employment Tribunal (Amendment No. 3) (Jersey) Regulations 2012	R&O.83/2012	17 July 2012

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>
11(1)	11
11(2)	Spent, omitted

**Table of Endnote References**

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- <sup>1</sup> *These Regulations have been amended by the States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government.*
- <sup>2</sup> *Chapter 05.255*
- <sup>3</sup> *chapter 16.325*
- <sup>4</sup> *Regulation 1 amended by R&O.143/2011, R&O.83/2012*
- <sup>5</sup> *Regulation 2 amended by R&O.22/2007, R&O.83/2012*
- <sup>6</sup> *Regulation 3 substituted by R&O.143/2011*
- <sup>7</sup> *Regulation 3A revoked by R&O.83/2012*
- <sup>8</sup> *Regulation 4 substituted by R&O.143/2011*

- <sup>9</sup> Regulation 5(2) substituted by R&O.143/2011, amended by R&O.83/2012
- <sup>10</sup> chapter 20.650
- <sup>11</sup> Regulation 5(3) amended by R&O.143/2011, R&O.83/2012
- <sup>12</sup> Regulation 5(5) added by R&O.143/2011, amended by R&O.83/2012
- <sup>13</sup> Regulation 6 substituted by R&O.22/2007
- <sup>14</sup> Regulation 6(1) amended by R&O.83/2012
- <sup>15</sup> Regulation 7(1) amended by R&O.83/2012
- <sup>16</sup> Regulation 7(2) amended by R&O.143/2011
- <sup>17</sup> Regulation 8(2) amended by R&O.83/2012
- <sup>18</sup> Regulation 8(4) substituted by R&O.83/2012
- <sup>19</sup> Regulation 9 amended by R&O.83/2012
- <sup>20</sup> Regulation 10(1) substituted by R&O.83/2012
- <sup>21</sup> Regulation 10(2) amended by R&O.83/2012