



Jersey

PROTECTION OF EMPLOYMENT OPPORTUNITIES (JERSEY) LAW 1988

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PROTECTION OF EMPLOYMENT OPPORTUNITIES (JERSEY) LAW 1988

Arrangement

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PROTECTION OF EMPLOYMENT OPPORTUNITIES (JERSEY) LAW 1988¹

A LAW to protect opportunities for the taking of employment by persons having a connection with Jersey

Commencement [[see endnotes](#)]

1 Interpretation

- (1) In this Law, unless the context otherwise requires –

“employment” means –

- (a) employment under a contract of service;
- (b) employment under an apprenticeship agreement;
- (c) self-employment,

in any trade, profession or industry;

“exempted person” means any person who, being a person to whom the proviso to Article 3(1) applies, has completed the formalities required by paragraph (2) of that Article;

“Minister” means the Minister of the States of Jersey who is designated by the States under Article 10;

“prescribed employment” means employment of any category prescribed under Article 3;

“school leaving age” means the upper limit of compulsory school age by virtue of Article 2 of the Education (Jersey) Law 1999.²

- (2) For the purposes of this Law a person shall be deemed to take employment in Jersey where, although there is no change of employer, there is a change from employment which is carried out outside Jersey to employment which is carried out in Jersey.
- (3) For the purposes of this Law a person does not take employment where a change of employer results from –
- (a) the sale of the business of the employer; or

- (b) the reconstruction or amalgamation of the company which is the employer.

2 Application

This Law applies to the taking of prescribed employment which is carried out in Jersey.

3 Power to prohibit the taking of prescribed employment without consent

- (1) The States may by Regulation provide that no person shall take employment of any category prescribed in the Regulations without the consent of the Minister:

Provided that no such Regulations shall in any case apply to –

- (a) a person who –
 - (i) was born in Jersey,
 - (ii) who has attained school leaving age, and
 - (iii) has been ordinarily resident in Jersey for a period of at least 10 years;
 - (b) a person who –
 - (i) has attained school leaving age, and
 - (ii) has at the time of taking employment been ordinarily resident in Jersey for a period of at least 10 years immediately preceding that taking of employment;
 - (c) a person who wishes to take employment in –
 - (i) the service of the Crown in right of the Government of the United Kingdom,
 - (ii) an office to which the person has been appointed by Her Majesty,
 - (iii) the office of Secretary and Aide de Camp to the Lieutenant-Governor,
 - (iv) an office to which the person has been appointed by the Bailiff,
 - (v) service under an international organisation of which Her Majesty's Government in the United Kingdom is a member;
 - (d) a person who qualifies to purchase, take on transfer or lease, on a registered contract of lease, any land under Regulation 1(1) of the Housing (General Provisions) (Jersey) Regulations 1970,³ or who qualifies to lease, other than on a registered contract of lease, any land under those sub-paragraphs as applied by paragraph (2) of that Regulation;
 - (e) the spouse or civil partner of a person who falls within paragraph (a), (b), (c) or (d) of this proviso.⁴
- (2) Any person who seeks to show that the person is an exempted person shall complete such form as may be required from time to time by the Minister and shall deliver such form, together with such particulars as

may likewise be required, to the person giving the employment, who shall, as soon as may be, forward the form and particulars to the Minister.

- (3) In this Article, “land”, “lease” and “registered contract” have the meanings assigned to those words in the Housing (Jersey) Law 1949.⁵

4 Application for consent

An application for consent to take prescribed employment shall –

- (a) be in the form required from time to time by the Minister;
- (b) contain or be accompanied by such particulars as the Minister may require; and
- (c) be accompanied by the fee (if any) prescribed by Order.

5 General

- (1) The Minister may grant consent to take prescribed employment either unconditionally or subject to such conditions as the Minister considers appropriate, or may refuse to grant consent to take prescribed employment.
- (2) In considering whether to grant consent to take prescribed employment, to impose conditions or to refuse consent, the Minister shall have particular regard to the matters set out in Part 1 or Part 2 of the Schedule, as the case may be.
- (3) Where the Minister refuses to grant consent to take prescribed employment he or she shall furnish to the applicant a statement in writing of his or her reasons.
- (4) The applicant, or the applicant’s prospective employer, aggrieved by the decision of the Minister to refuse to grant consent to take prescribed employment or by any condition imposed by the Minister, may appeal to the Royal Court within 2 months of the date of the notification of the decision of the Minister in the matter, on the ground that the decision of the Minister was unreasonable having regard to all the circumstances of the case.
- (5) A consent to take prescribed employment shall –
 - (a) be in such form as the Minister may prescribe by Order made under Article 11; and
 - (b) contain particulars of the prescribed employment for which it is given and of any conditions imposed by the Minister.

6 Offences

- (1) Any person who, not being an exempted person, takes prescribed employment otherwise than in accordance with the consent of the Minister shall be guilty of an offence and shall be liable to a fine.

- (2) Any person who gives employment to a person, not being an exempted person, otherwise than in accordance with the consent of the Minister to take that employment or who does not deliver the form and particulars required by virtue of Article 3(2) shall be guilty of an offence and shall be liable to a fine.
- (3) A person commits an offence if for the purpose of procuring, whether for himself or herself or another person, the consent of the Minister to take prescribed employment, the person makes any statement which the person knows to be false.
- (4) A person commits an offence if, for the purpose of showing that he or she, or another person, is an exempted person, the person makes any statement or delivers any particulars which the person knows to be false.
- (5) A person commits an offence if the person dishonestly represents himself or herself to be an exempted person.
- (6) A person commits an offence if the person contravenes or fails to comply with any condition imposed on the person under Article 5.
- (7) Where any condition imposed under Article 5 is contravened or not complied with, the consent to take prescribed employment shall be of no effect.
- (8) A person who is guilty of an offence under paragraph (3), (4), (5) or (6) shall be liable to a fine.

7 Investigation

- (1) A person authorized in that behalf by the Minister may at all reasonable times on production if so required of evidence of the person's authority, enter on any land or premises and make such enquiries and require the production of such documents as the person thinks necessary in order to ensure that the provisions of this Law are being complied with.
- (2) A person who obstructs or impedes any person so authorized in the execution of the person's duties shall be guilty of an offence and shall be liable in respect of each offence to a fine.

8 Controller of Social Security to disclose information to Attorney General

- (1) Notwithstanding anything in the person's oath of office or in any other enactment the person for the time being appointed as Controller for the purpose of administering the Social Security (Jersey) Law 1974,⁶ shall disclose such information as may be required in accordance with paragraph (2).
- (2) Where the Attorney General is satisfied that it is necessary for the purpose of ascertaining whether the provisions of this Law or any Regulations made under the Law are being or have been complied with the Attorney General may give notice in writing to the said Controller requiring the disclosure of information for that purpose from records kept by the said Controller.

- (3) Information disclosed in accordance with paragraph (2) may be given in evidence in any court.

9 Saving provisions

- (1) It is hereby declared that nothing in this Law shall affect the right of a person to continue in the employment in which the person is engaged on the commencement of a Regulation making that employment prescribed employment.
- (2) The requirements of this Law shall not apply to or affect a person who is subject to any condition or restriction relating to employment imposed upon the person under or by virtue of the Immigration Act 1971 of the United Kingdom⁷ as extended to Jersey.
- (3) Nothing in this Law shall affect the power of the States to transfer functions of Committees under Article 29 of the States of Jersey Law 1966.⁸

10 Regulations and Act designating Minister

- (1) The States may by Regulations –
- (a) for the purposes of Article 3 prescribe any category of employment which a person may not take without the consent of the Minister;
 - (b) amend sub-paragraphs (a), (b), (d) and (e) of the proviso to Article 3(1);
 - (c) alter the matters set out in Part 1 or Part 2 of the Schedule.
- (2) The States shall before making any Regulations under this Law by Act designate one of its Ministers as the Minister having functions under this Law.
- (3) Once a person has acquired immunity from the application to the person of Regulations made under Article 3, the person's immunity shall not be affected by anything in Regulations made under this Article.

11 Orders

- (1) The Minister may make Orders generally for carrying this Law into effect and, in particular but without prejudice to the generality of the foregoing, shall make Orders –
- (a) prescribing the form of application to be used under Article 4;
 - (b) prescribing the fees to be paid under Article 4; and
 - (c) prescribing the form of consent to be used under Article 5.
- (2) The Subordinate Legislation (Jersey) Law 1960,⁹ shall apply to Orders made under this Law.

12 Citation

This Law may be cited as the Protection of Employment Opportunities (Jersey) Law 1988.

SCHEDULE

(Article 5(2))

PART 1

The Minister in considering whether to grant or refuse an application for consent to take prescribed employment with an employer shall have particular regard to –

- (a) the availability of persons having a level of experience or training adequate for that employment who may take employment without the consent of the Minister;
- (b) the extent to which that employment is actually sought by such persons;
- (c) the comparability of the wages and conditions of service offered for that employment with the wages and conditions of service of the majority of persons engaged in like employment;
- (d) the probable duration of that employment;
- (e) the period of time for which the vacancy has existed and the period of time (if any) during which it has been advertised;
- (f) the nature and extent of any such advertising;
- (g) the character of the prospective employee;
- (h) the job experience of the prospective employee;
- (i) the provision (if any) made by the prospective employer for housing the employee.

PART 2

The Minister in considering whether to grant or refuse an application for consent to take prescribed employment in a self-employed capacity shall have particular regard to –

- (a) the matters referred to in paragraphs (a), (b), (d), (g) and (h) of Part 1; and
- (b) the economic situation of Jersey.

ENDNOTES**Table of Legislation History**

Legislation	Year and No	Commencement
Protection of Employment Opportunities (Jersey) Law 1988	L.5/1988	8 April 1988
Education (Jersey) Law 1999	L.27/1999	1 March 2000
States of Jersey (Amendments and Construction Provisions No. 7) (Jersey) Regulations 2005	R&O.47/2005	9 December 2005
Civil Partnership (Jersey) Law 2012	L.4/2012	2 April 2012

Table of Renumbered Provisions

Original	Current
4(i)	4(a)
(ii)	(b)
(iii)	(c)
SCHEDULE PART I	SCHEDULE PART 1
(j)	(i)
SCHEDULE PART II	SCHEDULE PART 2

Table of Endnote References

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- ¹ *This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 7) (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*
- ² *chapter 10.800*
- ³ *Article 1(1) definition “school leaving age” amended by L.27/1999*
- ⁴ *Article 3(1) amended by L.4/2012*
- ⁵ *chapter 18.315*
- ⁶ *chapter 26.900*
- ⁷ *OinC.33/1972*
- ⁸ *chapter 16.800*
- ⁹ *chapter 15.720*