



Jersey

EMPLOYMENT (AMENDMENT No. 6) (JERSEY) LAW 2012

Arrangement

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A LAW to amend further the Employment (Jersey) Law 2003.

Adopted by the States

18th January 2011

Sanctioned by Order of Her Majesty in Council

14th December 2011

Registered by the Royal Court

6th January 2012

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

In this Law, the “principal Law” means the Employment (Jersey) Law 2003¹.

2 Article 60B amended

For Article 60B of the principal Law there shall be substituted the following Article –

“60B Qualifying period of employment

- (1) An employee does not have any right to a redundancy payment unless that person has been continuously employed for a period of not less than 2 years ending with the effective date of termination.
- (2) The provisions of Article 57 shall not apply in computing the period of employment for the purposes of this Article and instead the period of employment shall be computed as follows –
 - (a) any week during the whole or part of which the employee’s relations with the employer are governed by a contract of employment shall count in computing a period of employment;

- (b) except so far as otherwise provided by the following provisions of this paragraph any week which does not count under sub-paragraph (a) shall break the continuity of the period of employment for the purposes of this Article;
- (c) if –
 - (i) a fixed term contract of employment has expired in accordance with its terms, and
 - (ii) another fixed term contract of employment is entered into by the same parties which takes effect not more than 26 weeks after the expiry of the previous fixed term contract of employment,the interval between the 2 periods of employment shall not be taken to break the period of employment when computing its length, but the length of the interval shall not be counted in the computation;
- (d) a week shall not count under sub-paragraph (a) if, in that week, or any part of that week, the employee takes part in a strike;
- (e) the continuity of an employee’s period of employment shall not be broken by a week which does not count under this paragraph if in that week, or part of that week, the employee takes part in a strike;
- (f) the continuity of the period of employment shall not be broken by a week which does not count under this paragraph if, in that week, or in a part of that week, the employee is absent from work because of a lock-out by his or her employer.”.

3 Article 60E amended

In Article 60E of the principal Law –

- (a) in paragraph (2)(b)(ii) the word “be” shall be inserted after the words “as the case may”;
- (b) after paragraph (3) there shall be added the following paragraphs –
 - “(4) Where an offer (whether in writing or not) is made to an employee before the end of that person’s employment –
 - (a) to renew that person’s contract of employment; or
 - (b) to re-engage that person under a new contract of employment,with the renewal or re-engagement to take effect either immediately on, or after an interval of not more than 4 weeks after, the end of that employment, the employee is not entitled to a redundancy payment if the employee unreasonably refuses the offer and paragraph (5) is satisfied.
- (5) This paragraph is satisfied where –

- (a) the provisions of the contract as renewed, or of the new contract, as to –
 - (i) the capacity and place in which the employee would be employed, and
 - (ii) the other terms and conditions of that employment, would not differ from the corresponding provisions of the previous contract; or
- (b) those provisions of the contract as renewed, or of the new contract, would differ from the corresponding provisions of the previous contract but the offer constitutes an offer of suitable employment in relation to the employee.”.

4 Article 60F amended

In Article 60F of the principal Law –

- (a) for paragraph (1) there shall be substituted the following paragraph –
 - “(1) Where an employer is proposing to dismiss as redundant at one establishment 12 or more employees, such dismissals taking place within a period of 30 days or less, the employer shall consult about the dismissals all the persons who are the appropriate representatives of the affected employees.”;
- (b) for paragraph (3) there shall be substituted the following paragraph –
 - “(3) For the purposes of this Article, the appropriate representatives of the affected employees are –
 - (a) in respect of any employee of a description in respect of which a trade union is registered under the Employment Relations (Jersey) Law 2007² and recognized in accordance with a code of practice approved under Article 25 of that Law, representatives of the trade union;
 - (b) in respect of each employee of a description in respect of which there is no trade union as described in subparagraph (a), whichever of the following employee representatives the employer chooses –
 - (i) employee representatives appointed or elected by the affected employees otherwise than for the purposes of this Article, who (having regard to the purposes for and the method by which they were appointed or elected) have authority from those employees to receive information and to be consulted about the proposed dismissals on their behalf,
 - (ii) employee representatives elected by the affected employees, for the purposes of this Article, in an election satisfying the requirements of Article 60G.”.

5 Article 60H amended

In Article 60H of the principal Law –

(a) for paragraph (1) there shall be substituted the following paragraph –

“(1) Where an employer has failed to comply with a requirement of Article 60F or Article 60G, a complaint may be presented to the Tribunal on that ground by any of the appropriate representatives or, if for any reason there are no such appropriate representatives, by any of the affected employees or by any of the employees who have been dismissed as redundant.”;

(b) in paragraph (6) for the number “13” there shall be substituted the number “9”.

6 Article 60N amended

For Article 60N(1) of the principal Law there shall be substituted the following paragraph –

“(1) If an employer proposes to dismiss as redundant at one establishment 12 or more employees, such dismissals taking place within a period of 30 days or less, the employer shall notify the Minister in writing of that proposal –

(a) before giving notice to terminate an employee’s contract of employment in respect of any of those dismissals; or

(b) at least 30 days before the first of those dismissals takes effect,

whichever is earlier.”.

7 Citation and commencement

This Law may be cited as the Employment (Amendment No. 6) (Jersey) Law 2012 and shall come into force on such day or days as the States may by Act appoint and different days may be appointed for different provisions.

M.N. DE LA HAYE

Greffier of the States

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- ¹ *chapter 05.255*
² *chapter 05.260*