



Jersey

EMPLOYMENT (AMENDMENT No. 7) (JERSEY) LAW 2012

Arrangement

Article

1	Interpretation.....	3
2	Article 2 amended	3
3	Article 60B substituted	3
4	Article 60C amended	4
5	Article 60CA inserted	5
6	Article 60F amended.....	5
7	Article 60K amended	6
8	Article 60L amended.....	6
9	Article 85 substituted	6
10	Citation and commencement.....	6



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

Adopted by the States

9th June 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 2 amended

After Article 2(3) of the principal Law there shall be added the following paragraph –

“(4) In paragraph (1) the reference to an employee who is dismissed shall be taken to refer to an employee who is dismissed by his or her employer in accordance with Article 62.”.

3 Article 60B substituted

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 9 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.”.

4 Article 60C amended

In Article 60C(3) of the principal Law after the words “one week’s pay” there shall be inserted the words “shall be calculated in accordance with Schedule 1 but”.

5 Article 60CA inserted

After Article 60C of the principal Law there shall be inserted the following Article –

“60CA Further provisions relating to continuity of employment

- (1) For the purposes of Articles 60B and 60C, if –
 - (a) an employer has paid the employee a redundancy payment under this Part; and
 - (b) the employee’s contract of employment is renewed (whether by the same or another employer) or he or she is engaged under a new contract of employment (whether by the same or another employer),

the period in which an employee has been continuously employed is deemed to be broken on the date that is the effective date of termination referred to in Article 60B(1) or 60C(1), as the case may be.

- (2) For the purposes of this Article, a redundancy payment shall be treated as having been paid under this Part if –
 - (a) the whole of the payment has been paid to the employee by the employer; or
 - (b) the Tribunal has found that the employer must pay part (but not all) of the redundancy payment and the employer has paid that part.”.

6 Article 60F amended

In Article 60F of the principal Law –

- (1) in paragraph (13) after the words “with such redundancy” there shall be added the words “but excludes any employee to whom paragraph (14) applies.”.
- (2) After paragraph (13) there shall be added the following paragraph –
 - “(14) This paragraph applies to an employee who is employed under a contract of employment for a fixed term of one year or less unless –
 - (a) the employee was previously employed under another contract of employment for a fixed term of one year or less;
 - (b) the parties to both contracts of employment are the same; and
 - (c) the interval between the expiry of the previous contract of employment and the commencement of the employee’s current contract of employment was not more than 9 weeks.”.

7 Article 60K amended

In Article 60K of the principal Law –

- (a) in paragraph (3)(a) after the words “that period of” there shall be inserted the word “permitted”;
- (b) after paragraph (3) there shall be added the following paragraph –
 - “(4) Paragraph (1) does not apply to an employee who is employed under a contract of employment for a fixed term of one year or less unless –
 - (a) the employee was previously employed under another contract of employment for a fixed term of one year or less;
 - (b) the parties to both contracts of employment are the same; and
 - (c) the interval between the expiry of the previous contract of employment and the commencement of the employee’s current contract of employment was not more than 9 weeks.”.

8 Article 60L amended

In Article 60L(2) and (3) of the principal Law after the words “one week’s pay” there shall be inserted the words “, calculated in accordance with Schedule 1,”.

9 Article 85 substituted

For Article 85 of the principal Law there shall be substituted the following Article –

“85 Secretary of Tribunal

The Judicial Greffier shall act as Secretary of the Tribunal.”.

10 Citation and commencement

This Law may be cited as the Employment (Amendment No. 7) (Jersey) Law 2012 and shall come into force on such day or days as the States may by Act appoint.

M.N. DE LA HAYE

Greffier of the States

¹ *chapter 05.255*