



Jersey

EMPLOYMENT OF STATES OF JERSEY EMPLOYEES (AMENDMENT No. 7) (JERSEY) REGULATIONS 2015

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Made

14th July 2015

Coming into force

21st July 2015

THE STATES, in pursuance of Article 42 of the Employment of States of Jersey Employees (Jersey) Law 2005¹, have made the following Regulations –

1 Interpretation

In these Regulations a reference to an Article by number only is a reference to the Article of that number in the Employment of States of Jersey Employees (Jersey) Law 2005².

2 Role of Chief Executive Officer

For Article 3(3) there shall be substituted the following paragraphs –

“(3) As the Head of the Public Service, the Chief Executive Officer shall lead chief officers in –

- (a) the administration and general management of the public service; and
- (b) the implementation of corporate and strategic policies.

(4) In so leading chief officers, the Chief Executive Officer shall have the power –

- (a) to require a chief officer to account for the matters in paragraph (3)(a) and (b), so far as the Ministerial department for which he or she is the chief officer is responsible for them; and
- (b) to direct a chief officer as to the duties to be undertaken by him or her in the course of his or her employment as a States' employee.

(5) The powers in paragraph (4) –

- (a) do not override a chief officer's accountability under –
 - (i) Article 26(6) of the States of Jersey Law 2005³,

- (ii) Article 38(1) of the Public Finances (Jersey) Law 2005⁴, or
 - (iii) Article 10A of this Law; and
 - (b) cannot be used to direct or seek to influence a chief officer –
 - (i) in the discharge of a function delegated to him or her by a Minister, or
 - (ii) in the discharge of a function imposed on him or her by any enactment.
- (6) In this Article –
 - ‘chief officer’ means the senior States’ employee in a Ministerial department;
 - ‘Ministerial department’ means an administration of the States for which a Minister is assigned responsibility.”.

3 Members of States Employment Board

- (1) In Article 1 after the definition “member” there shall be inserted the following definition –
 - “ ‘ordinary election’ means an ordinary election for Deputies held under Article 6(2) of the States of Jersey Law 2005⁵.”.
- (2) After Article 5(2) there shall be added the following paragraph –
 - “(3) A member of the States Employment Board shall hold office until a Chief Minister is appointed to office, under Article 19(7) of the States of Jersey Law 2005⁶, following the next ordinary election, unless the member of the Board resigns or is removed from office earlier.”.

4 Advisors to the States Employment Board

- (1) After Article 6 there shall be inserted the following Article –

“6A Advisors to States Employment Board

- (1) The States Employment Board may appoint one or 2 advisors.
- (2) An appointment shall be on such terms as the States Employment Board determines, but shall end upon the Chief Minister being appointed to office, under Article 19(7) of the States of Jersey Law 2005⁷, following the next ordinary election, unless the advisor resigns or is removed from office earlier.
- (3) An advisor has the right to attend and speak at a meeting of the States Employment Board.
- (4) The Chairman shall convene a meeting of the States Employment Board if requested to do so by notice in writing signed by an advisor.”.

- (2) In Article 7(1), for the words “unless the act or omission was in bad faith.” there shall be substituted the words –

“unless –

- (a) it is shown that the act or omission was in bad faith; or
 - (b) liability arises in respect of an act or omission that is unlawful as a result of Article 7(1) of the Human Rights (Jersey) Law 2000⁸ (acts of public authorities incompatible with Convention rights).”.
- (3) In Article 7(2), after the words “any member of the States Employment Board,” there shall be inserted the words “any advisor to the States Employment Board,”.

5 Term of appointment of Chairman of Jersey Appointments Commission

In Article 18(4), for the words “for 4 years” there shall be substituted the words “, subject to this Law, for a period of not more than 4 years,”.

6 Functions of States Employment Board

- (1) For Article 8 there shall be substituted the following Article –

“8 Functions of States Employment Board

- (1) The States Employment Board shall –
- (a) employ persons on behalf of the States and administrations of the States;
 - (b) ensure that the public service conducts itself with economy, efficiency, probity and effectiveness;
 - (c) ensure the health, safety and well-being of States’ employees;
 - (d) determine any other matter that may reasonably be considered necessary for the proper administration and management of States’ employees; and
 - (e) discharge any other function conferred on it by or under any enactment.
- (2) The States Employment Board shall, for the purpose of the discharge of the functions described in paragraph (1)(a) to (c) –
- (a) give directions regarding consultation or negotiation with States’ employees, or with representatives of States’ employees, concerning the terms and conditions of employment of States’ employees;
 - (b) issue codes of practice concerning –
 - (i) the training and development needs of States’ employees,
 - (ii) the procedures for recruitment of States’ employees,

- (iii) the procedures for appraisal of the performance of States' employees,
 - (iv) the procedures for disciplining, suspending and terminating the employment of States' employees, and
 - (v) interventions by the Commission under Article 26A.
- (3) The States Employment Board may issue codes of practice concerning any other matter relating to the employment of States' employees.
- (4) In paragraph (2)(b)(ii), 'States' employees' includes a person who is to be treated as a States employee by virtue of Article 15(2).
- (5) The functions referred to in paragraph (1)(e) include the functions conferred by Article 8(1) of the Departments of the Judiciary and the Legislature (Jersey) Law 1965⁹, Article 3 of the Loi (1864) concernant la charge de Juge d'Instruction¹⁰ and Article 41(5) of the States of Jersey Law 2005¹¹."
- (2) After Article 10 there shall be inserted the following Article –

“10A Compliance with codes of practice concerning States' employees

- (1) The accounting officer in a States funded body (including a non-Ministerial States funded body) shall be accountable for ensuring that codes of practice issued under Article 8 are complied with in the recruitment and employment of States' employees to work within that body.
- (2) Any person to whom a power or function is delegated under Article 10 shall, when exercising the power or discharging the function, comply with codes of practice issued under Article 8.
- (3) In this Article, 'accounting officer', 'States funded body' and 'non-Ministerial States funded body' have the same meanings as in the Public Finances (Jersey) Law 2005¹²."

7 Functions of Jersey Appointments Commission – general

- (1) In the long title, the words “States' employees and” shall be deleted.
- (2) In Article 14 for the definitions “States' appointee” and “States' employee” there shall be substituted the following definitions –
 - “ ‘States' appointee’ means a person who is, by virtue of Article 15(4), a States' appointee;
 - ‘States' employee’ includes an employee who is, by virtue of Article 15(2), to be treated as a States' employee.”
- (3) For Article 15 there shall be substituted the following Article –

“15 Extension of Part 4 to independent bodies

- (1) The States Employment Board and the Commission may, for the purposes of paragraph (2), agree a list of offices, or classes of

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- office, being offices in which persons are employed by independent bodies.
- (2) A person employed in an office, or class of office, listed under paragraph (1) is, for the purposes of this Part, to be treated as a States' employee.
 - (3) The States Employment Board and the Commission may, for the purposes of paragraph (4), agree a list of offices, or classes of office, being offices to which persons are appointed or elected in or with independent bodies.
 - (4) A person appointed or elected to an office, or class of office, listed under paragraph (3) is, for the purposes of this Part, a States' appointee.
 - (5) If the States Employment Board and the Commission cannot agree a list under paragraph (1) or (3), the opinion of the States Employment Board shall prevail.
 - (6) The States Employment Board shall ensure that a list produced under paragraph (1) or (3) is available for viewing by any person."
- (4) In Article 23 –
- (a) at the beginning there shall be inserted the paragraph number "(1)";
 - (b) the word "and" at the end of paragraph (1)(b) shall be deleted;
 - (c) for paragraph (1)(c) there shall be substituted the following subparagraphs –
 - "(c) members of the States are only involved in the recruitment of States' employees in accordance with codes of practice issued under Article 8; and
 - (d) members of the States are only involved in the recruitment of States' appointees in accordance with guidelines made under Article 24 or otherwise in circumstances where, in the opinion of the Commission, it is appropriate that they be involved."
 - (d) after paragraph (1) there shall be added the following paragraphs –
 - "(2) The function in paragraph (1)(d) is subject to any direction by the States Employment Board that, in its opinion, it is appropriate for a Minister to participate in a recruitment of a States appointee.
 - (3) The Commission may, if requested by any person or body conducting a recruitment in connection with which the Commission does not have any functions under this Part, oversee, observe or participate in the recruitment, on such terms as the Commission agrees with the requesting person or body."
- (5) After Article 23 there shall be inserted the following Article –
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“23A Duty to advise on preparation of codes of practice for recruitment of States’ employees

- (1) The Commission shall advise the States Employment Board on the preparation of codes of practice under Article 8 concerning the procedures for recruitment of States’ employees.
 - (2) The Commission shall inform the States Employment Board if, in its opinion, a new code of practice concerning the procedures for recruitment of States’ employees should be prepared or an existing code of practice for such procedures amended or revoked under Article 8.
 - (3) The States Employment Board shall have regard to advice given under this Article.”.
- (6) At the end of the heading to Article 24 there shall be added the words “for recruitment of States’ appointees”.
- (7) In Article 24, the words “States’ employees or”, in each place that they appear, shall be deleted.
- (8) In Article 25 for paragraph (1) there shall be substituted the following paragraphs –
- “(1) The Commission shall, as required by paragraph (1A), carry out, or order to be carried out, audits of recruitment practices in relation to States’ employees and States’ appointees.
- (1A) Audits shall be carried out –
- (a) of a sample of recruitments that are representative of the recruitments described in paragraph (1);
 - (b) of recruitments where the Commission has cause to believe that –
 - (i) codes of practice issued under Article 8 have not been complied with, or
 - (ii) guidelines produced under Article 24 have not been complied with.”.
- (9) After Article 26 there shall be inserted the following Article –

“26A Power of intervention in recruitment of States’ employees

- (1) The Commission may intervene in the recruitment, on behalf of the States Employment Board, of a States’ employee, or States’ employees, if the Commission believes that any code of practice issued under Article 8(2)(b)(ii) is not being complied with.
- (2) The intervention shall be in accordance with any code of practice issued under Article 8(2)(b)(v).
- (3) The Commission shall notify the States Employment Board and the administration of the States conducting the recruitment on behalf of the Board, of its decision to intervene and the reasons for it.”.

8 Functions of Jersey Appointments Commission – senior States’ offices

- (1) In Article 1, the definition “senior States’ office” shall be deleted.
- (2) In Article 14, after the definition “former Appointments Commission” there shall be inserted the following definition –
“ ‘senior States’ office’ means an office listed under Article 16(1);”.
- (3) For Article 16 there shall be substituted the following Article –

“16 Senior States’ offices

- (1) The States Employment Board and the Commission may agree a list of offices of States’ employees or States’ appointees, or classes of offices of States’ employees or States’ appointees, that are to be senior States’ offices for the purposes of this Part.
- (2) A list under paragraph (1) shall further specify whether, under Article 26, the Commission is required to observe a recruitment to a senior States’ office or has a discretion to observe a recruitment to the office.
- (3) However, if the States Employment Board and the Commission cannot agree a list under paragraph (1), the opinion of the States Employment Board shall prevail.
- (4) The States Employment Board shall ensure that a list produced under paragraph (1) is available for viewing by any person.”.
- (4) For Article 26(1) there shall be substituted the following paragraphs –
“(1) The Commission –
 - (a) shall give a notice under this paragraph in relation to the recruitment of a person to a senior States’ office, or an office that is in a class of offices that are senior States’ offices, where a list under Article 16(1) requires the Commission to observe a recruitment to the office; and
 - (b) may give a notice under this paragraph in relation to the recruitment of a person to a senior States’ office, or an office that is in a class of offices that are senior States’ offices, where a list under Article 16(1) confers a discretion on the Commission to observe a recruitment to the office.
- (1A) A notice under paragraph (1) shall be given to –
 - (a) the Chief Executive Officer;
 - (b) the head of an administration of the States; or
 - (c) the head of an independent body.”.
- (5) In Article 26(2) for the words “before the commencement of recruitment” to the end of the paragraph there shall be substituted the words “before a recruitment to the office commences”.

9 Reports by Jersey Appointments Commission

After Article 28(5) there shall be added the following paragraphs –

- “(6) The Commission may, at any time, prepare and deliver to the States’ Employment Board a report upon the recruitment of one or more States’ employees, where the Commission is of the opinion that a code of practice issued under Article 8(2)(b)(ii) has not been complied with or that there has been any impropriety in the recruitment process.
- (7) If the Commission is of the opinion that the States Employment Board has not taken any or appropriate action in response to a report under paragraph (6) –
 - (a) the Commission may request the Chief Minister to lay the report before the States, together with any addendum subsequently prepared by the Commission; and
 - (b) the Chief Minister shall comply with the request within 30 days.
- (8) If the States Employment Board and the Commission cannot agree a list, as described in Article 15(1) or (3) or Article 16(1) –
 - (a) the Commission may prepare a report upon the failure to agree and request the Chief Minister to lay it before the States; and
 - (b) the Chief Minister shall comply with the request within 30 days.”.

10 Status of Data Protection Commissioner

At the end of the list in Schedule 1 there shall be added the office “Data Protection Commissioner”.

11 Citation and commencement

These Regulations may be cited as the Employment of States of Jersey Employees (Amendment No. 7) (Jersey) Regulations 2015 and shall come into force 7 days after they are made.

M.N. DE LA HAYE, O.B.E.

Greffier of the States

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- 1 chapter 16.325*
 - 2 chapter 16.325*
 - 3 chapter 16.800*
 - 4 chapter 24.900*
 - 5 chapter 16.800*
 - 6 chapter 16.800*
 - 7 chapter 16.800*
 - 8 chapter 15.350*
 - 9 chapter 16.300*
 - 10 chapter 07.525*
 - 11 chapter 16.800*
 - 12 chapter 24.900*