



Jersey

EMPLOYMENT RELATIONS (JERSEY) LAW 2007

Official Consolidated Version

This is an official version of consolidated legislation compiled and issued under the authority of the Legislation (Jersey) Law 2021.

Showing the law from 1 January 2019 to Current



Jersey

EMPLOYMENT RELATIONS (JERSEY) LAW 2007

Contents

Article

| | |
|--|-----------|
| PART 1 | 4 |
| INTRODUCTION | 4 |
| 1 Interpretation | 4 |
| 2 “Employer” and “employee” | 5 |
| 3 “Trade union” | 6 |
| 4 “Employers’ association” | 6 |
| 5 “Collective employment dispute” | 7 |
| 6 Forms of applications | 8 |
| PART 2 | 8 |
| REGISTRATION OF TRADE UNIONS AND EMPLOYERS’ ASSOCIATIONS | 8 |
| 7 Organizations to be registered | 8 |
| 8 Registers | 9 |
| 9 Application for registration | 9 |
| 10 Determination of application | 10 |
| 11 Amendment of register | 10 |
| 12 Determination of application | 10 |
| 13 Cancellation of registration on application of union or association | 11 |
| 14 Cancellation of registration on other grounds | 11 |
| 15 Appeals | 12 |
| PART 3 | 13 |
| STATUS OF TRADE UNIONS AND EMPLOYERS’ ASSOCIATIONS | 13 |
| 16 Status of trade unions and employers’ associations | 13 |
| 17 Exclusion of rules against restraint of trade | 13 |
| 18 Employee’s liability for breach of contract by industrial action | 14 |
| 19 Immunities from liability in tort for industrial action | 14 |
| 20 Limitations on immunities from liabilities in tort | 14 |
| 21 Limitation of damages | 15 |

| | |
|---|-----------|
| PART 4 | 15 |
| RESOLUTION OF COLLECTIVE EMPLOYMENT DISPUTES | 15 |
| 22 Jurisdiction in respect of collective employment disputes | 15 |
| 23 Orders and declarations in collective employment disputes..... | 16 |
| 24 Incorporation of terms and conditions into contracts of employment | 17 |
| 24A Enforcement of declaration in recognition dispute | 17 |
| PART 5 | 17 |
| OTHER PROVISIONS | 17 |
| 25 Approval of codes of practice..... | 17 |
| 26 Failure to comply with an approved code of practice..... | 18 |
| 27 Regulations | 19 |
| 28 Citation | 19 |
| ENDNOTES | 21 |
| Table of Legislation History..... | 21 |
| Table of Renumbered Provisions | 21 |
| Table of Endnote References | 21 |



Jersey

EMPLOYMENT RELATIONS (JERSEY) LAW 2007

A **LAW** to provide for the registration of trade unions and employers' associations; to make provision as to the legal status, including the obligations and immunities, of trade unions and employers' associations, and their officials and members; to provide for the resolution of collective employment disputes between employers and employees so as to promote the development of good working relationships between them; and for related purposes.

Commencement [[see endnotes](#)]

PART 1

INTRODUCTION

1 Interpretation

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

“approved code of practice” means a code of practice that is approved by an Order made by the Minister in accordance with Article 25;

“collective agreement” means an agreement that has been settled by machinery of negotiation, mediation, conciliation or arbitration to which the parties are –

- (a) an employer, or an organization of employers that is representative of a substantial proportion of the employers engaged in the trade or industry concerned; and
- (b) employees who are representative of a substantial proportion of the employees engaged in the trade or industry concerned;

“constitution” means the rules constituting a trade union or employers' association and providing for its management, however those rules are described;

“employment dispute” means –

- (a) a collective employment dispute; or
- (b) an individual employment dispute as defined in Article 1(1) of the [Employment \(Jersey\) Law 2003](#);

“Employment Forum” has the same meaning as it has in the [Employment \(Jersey\) Law 2003](#);

“Jersey” includes the territorial waters adjacent to Jersey;

“Jersey ship” has the meaning given in Article 2 of the [Shipping \(Jersey\) Law 2002](#);

“Jersey Employment and Discrimination Tribunal” and “Tribunal” mean the Jersey Employment and Discrimination Tribunal established under Article 81 of the [Employment \(Jersey\) Law 2003](#);

“Minister” means the Minister for Social Security;

“prescribed” means prescribed by Regulations;

“recognition dispute” means a dispute that relates wholly to an issue as to whether an approved code of practice as to the recognition of trade unions is being observed by one or more employers, or by one or more employees, for the purposes of any matter relating to pay, hours of work or holidays;

“register”, when used as a noun, means the register of trade unions or the register of employers’ associations (as the case requires) established and maintained under Article 8(2) by the registrar;

“register” when used as a verb, means to register under Article 10(3);

“registrar” means the registrar of trade unions and employers’ associations appointed under Article 8(1);

“Regulations” mean Regulations made under this Law.¹

- (2) In this Law, any reference to employment, or to one person being employed by another, is a reference to –
- (a) employment which requires the employee to work wholly or mainly in Jersey; or
 - (b) employment on a Jersey ship, unless –
 - (i) the employment is wholly outside Jersey, or
 - (ii) the employee is not ordinarily resident in Jersey.²

2 “Employer” and “employee”

- (1) In this Law –
- (a) “employer” means a person who employs another person; and
 - (b) “employee” means a person who is employed by an employer.
- (2) For the purposes of paragraph (1), a person is employed by another person if the first person works for the second person under a contract of service or apprenticeship with the second person.
- (3) For the purposes of paragraph (1), a person is also employed by another person if the first person enters into any other contract with the second person under which –
- (a) the first person undertakes to do, or to perform personally, work or services for the second person; and

- (b) the status of the second person is not that of a client or customer of any profession or trade or business undertaking that is carried on by the first person.
- (4) It is immaterial whether a contract to which paragraph (2) or paragraph (3) refers is express or implied.
- (5) If the contract is express, it is immaterial whether it is oral or in writing.

3 “Trade union”

- (1) In this Law, “trade union” means an organization that is described in paragraph (2) or in paragraph (3).
- (2) An organization is a trade union if –
 - (a) it consists wholly or mainly of employees of one or more descriptions; and
 - (b) its principal purposes include the regulation of relations between employees of that description or of those descriptions and employers or employers’ associations.
- (3) An organization is also a trade union if it consists wholly or mainly of –
 - (a) constituent or affiliated organizations that fulfil the conditions in paragraph (2), or that themselves consist wholly or mainly of constituent or affiliated organizations that fulfil those conditions; or
 - (b) representatives of any such constituent or affiliated organizations,and its principal purposes include the regulation of relations between employees and employers or between employees and employers’ associations, or the regulation of relations between its constituent or affiliated organizations.
- (4) It is immaterial whether an organization described in paragraph (2) or in paragraph (3) is temporary or permanent.

4 “Employers’ association”

- (1) In this Law, “employers’ association” means an organization that is described in paragraph (2) or in paragraph (3).
- (2) An organization is an employers’ association if –
 - (a) it consists wholly or mainly of employers or individual owners of undertakings of one or more descriptions; and
 - (b) its principal purposes include the regulation of relations between employers of that description or of those descriptions and employees or trade unions.
- (3) An organization is also an employers’ association if it consists wholly or mainly of –
 - (a) constituent or affiliated organizations that fulfil the conditions in paragraph (a), or that themselves consist wholly or mainly of constituent or affiliated organizations that fulfil those conditions; or
 - (b) representatives of any such constituent or affiliated organizations,

and its principal purposes include the regulation of relations between employers and employees or between employers and trade unions, or the regulation of relations between its constituent or affiliated organizations.

- (4) It is immaterial whether an organization described in paragraph (2) or in paragraph (3) is temporary or permanent.
- (5) References in this Law to employers' associations include combinations of employers and employers' associations.

5 “Collective employment dispute”

- (1) In this Law, “collective employment dispute” means a dispute between one or more employers and one or more employees, where –
 - (a) the employee or employees concerned are represented by a trade union;
 - (b) a collective agreement exists between the employer or employers and the trade union; and
 - (c) the dispute relates wholly or mainly to one or more of the matters described in paragraph (2).
- (2) The matters to which this paragraph refers are –
 - (a) the terms of employment of one or more employees;
 - (b) the conditions in which one or more employees are required to work;
 - (c) the engagement or non-engagement of one or more persons as employees, or the termination or suspension of employment of one or more employees;
 - (d) the termination or suspension of the duties of employment of one or more employees;
 - (e) the allocation of work or the duties of employment as between employees or as between groups of employees;
 - (f) matters of discipline or grievance;
 - (g) the membership or non-membership of a trade union on the part of one or more employees;
 - (h) facilities for officials of trade unions; and
 - (i) an issue as to whether or not an approved code of practice is being observed by one or more employers or by one or more employees.
- (2A) In this Law, “collective employment dispute” also means a dispute between one or more employers and one or more employees, where –
 - (a) the employee or employees concerned are represented by a trade union;
 - (b) the trade union is one that fulfils criteria for its recognition that are set out in an approved code of practice; and
 - (c) the dispute is a recognition dispute.³
- (2B) However, a recognition dispute between –
 - (a) an employer who employs on average fewer than 21 employees in the period of 13 weeks immediately preceding the day on which the dispute arises; and

- (b) the trade union,
is not a collective employment dispute.⁴
- (3) A dispute between a Minister and any one or more employees shall, notwithstanding that the Minister is not the employer of those employees, be treated for the purposes of this Law as a dispute between an employer and those employees if the dispute relates –
- (a) to matters that have been referred for consideration by a joint body on which, by virtue of any provision made by or under any enactment, that Minister is represented; or
- (b) to matters that cannot be settled without that Minister exercising a power conferred on that Minister by or under any enactment.⁵
- (4) It is immaterial that a dispute relates to matters occurring outside Jersey if a person or persons whose actions in Jersey are said to be in contemplation or in furtherance of the dispute is or are likely to be affected in respect of any matter specified in paragraph (2) by the outcome of the dispute.
- (5) A dispute to which a trade union is a party shall be treated for the purposes of this Law as a dispute to which employees are parties.
- (6) A dispute to which an employers' association is a party shall be treated for the purposes of this Law as a dispute to which employers are parties.

6 Forms of applications

- (1) If the form of an application under this Law is prescribed, the application must be made in that form.
- (2) If the form of an application under this Law is not prescribed, the Minister shall approve the form in which the application may be made.⁶
- (3) If the form of an application under this Law is approved under paragraph (2), the application must be made in that form.
- (4) The registrar shall make copies of forms of application under this Law available to applicants on request.

PART 2

REGISTRATION OF TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

7 Organizations to be registered

- (1) A trade union or employers' association shall not do any act in furtherance of any purpose for which the union or association is formed unless it is registered in accordance with this Law.
- (2) A person who is an officer or member of a trade union or employers' association shall not do any act in furtherance of any purpose for which the union or association is formed unless it is registered in accordance with this Law.

8 Registers

- (1) The Minister shall appoint a person as the registrar of trade unions and employers' associations.⁷
- (2) The registrar shall establish and maintain –
 - (a) a register of trade unions; and
 - (b) a register of employers' associations.
- (3) The register of trade unions shall contain, in respect of each registered trade union, the following information –
 - (a) the name of the union;
 - (b) the address of the union;
 - (c) the name of each person who is an officer of the union;
 - (d) a copy of the union's constitution;
 - (e) such other information as may be prescribed.
- (4) The register of employers' associations shall contain, in respect of each registered employers' association, the following information –
 - (a) the name of the association;
 - (b) the address of the association;
 - (c) the name of each person who is an officer of the association;
 - (d) a copy of the association's constitution;
 - (e) such other information as may be prescribed.
- (5) The registers shall be available for public inspection during normal working hours, free of charge, at the office of the registrar.

9 Application for registration

- (1) An application for the registration of a trade union or employees' association must comply with this Article.
- (2) The application may be made by, but only by –
 - (a) at least 7 members of the trade union or employers' association; or
 - (b) an officer of the union or association.
- (3) A person may only be an applicant if he or she is authorized by the trade union or employers' association to make the application.
- (4) If the application is for the registration of a trade union, it shall contain the information specified in Article 8(3).
- (5) If the application is for the registration of an employers' association, it shall contain the information specified in Article 8(4).
- (6) The application shall be accompanied by a copy of the constitution of the trade union or employers' association, and the copy shall be verified by each applicant.
- (7) If an application fee is prescribed, the application shall be accompanied by that fee.

10 Determination of application

- (1) The registrar shall refuse to grant an application for the registration of a trade union or employers' association if, but only if –
 - (a) any of the purposes of the union or association is unlawful;
 - (b) the application is not made in accordance with this Law; or
 - (c) the name of the union or association is the same as the name by which any other union or association is registered, or so nearly resembles such a name as to be likely to mislead any person.
- (2) If the registrar refuses to grant an application for the registration of a trade union or employers' association, the registrar shall give each applicant notice in writing of that decision and of the reasons for the decision.
- (3) Unless the registrar is required by paragraph (1) to refuse to grant an application for the registration of a trade union or employers' association, he or she shall –
 - (a) grant the application;
 - (b) register the union or association in the appropriate register; and
 - (c) issue to the applicant or applicants a certificate of registration in the prescribed form.

11 Amendment of register

- (1) If in respect of a registered trade union or registered employers' association there is any change –
 - (a) in any information that is required, by paragraph (3) or paragraph (4) of Article 8, to be contained in the register; or
 - (b) in the constitution of the union or association,an application must be made within one month of that change, to the registrar, to amend the register accordingly.
- (2) The application shall be made by a member or officer of the trade union or employers' association.
- (3) A person may only be an applicant if he or she is authorized by the trade union or employers' association to make the application.
- (4) If the application is made in respect of a change in the constitution of the trade union or employers' association, it shall be accompanied by a copy of the constitution as so changed, and the copy shall be verified by the applicant.
- (5) If an application fee is prescribed, the application shall be accompanied by that fee.

12 Determination of application

- (1) The registrar shall refuse to grant an application for the amendment of the register in respect of a trade union or employers' association if, but only if –
 - (a) the effect of the amendment would be that any of the purposes of the union or association are unlawful;
 - (b) the application is not made in accordance with this Law; or

- (c) the effect of the amendment would be that the name of the union or association is the same as the name by which any other union or association is registered, or would so nearly resemble such a name as to be likely to mislead any person.
- (2) If the registrar refuses to grant an application for the amendment of the register in respect of a trade union or employers' association, the registrar shall give the union or association notice in writing of that decision and of the reasons for the decision.
- (3) Unless the registrar is required by paragraph (1) to refuse an application to amend the register in respect of a trade union or employers' association, he or she shall –
 - (a) grant the application;
 - (b) amend the register accordingly; and
 - (c) if the amendment is such as to make it appropriate to amend the certificate of registration, issue to the union or association an amended certificate of registration accordingly.

13 Cancellation of registration on application of union or association

- (1) On the application of a member or officer of a trade union or employers' association, the registrar may cancel its registration.
- (2) A person may only be an applicant if he or she is authorized by the trade union or employers' association to make the application.
- (3) If an application fee is prescribed, the application shall be accompanied by that fee.
- (4) If the registrar grants the application, he or she shall give the applicant notice in writing of the registrar's decision.
- (5) If the registrar refuses to grant the application, he or she shall give the trade union or employers' association notice in writing of that decision and of the reasons for the decision.

14 Cancellation of registration on other grounds

- (1) The registrar shall cancel the registration of a trade union or employers' association if any of its purposes are unlawful.
- (2) The registrar may cancel the registration of a trade union or employers' association on any of the following grounds –
 - (a) if its registration has been obtained by fraud or mistake;
 - (b) if it has contravened Article 11(1);
 - (c) if, after the registrar has given it not less than 21 days notice in writing to comply with a prescribed requirement, the union or association has failed to comply with that requirement; or
 - (d) if it has ceased to exist.
- (3) The registrar may under paragraph (2) cancel the registration of a trade union or employers' association of his or her own motion or on the application of any person having sufficient *locus standi*.

- (4) However, before cancelling the registration of a trade union or employers' association under paragraph (1), or under paragraph (2) on a ground specified in any of sub-paragraphs (a), (b) and (c) of that paragraph, the registrar shall –
- (a) give the union or association notice in writing of his or her proposal to do so; and
 - (b) afford it a reasonable opportunity to be heard on the matter.
- (5) If (having complied with paragraph (4)) the registrar decides under paragraph (1) to cancel the registration of a trade union or employers' association or decides under any of sub-paragraphs (a), (b) and (c) of paragraph (2) –
- (a) to cancel the registration of a union or association; or
 - (b) to refuse to grant an application to cancel its registration,
- the registrar shall give the union or the association notice in writing of that decision and of the reasons for the decision.
- (6) If the registrar decides under any of sub-paragraphs (a), (b) and (c) of paragraph (2) to grant or refuse to grant an application to cancel the registration of a trade union or employers' association, the registrar shall also give the applicant notice in writing of that decision and of the reasons for the decision.
- (7) A cancellation of the registration of a trade union or employer's association –
- (a) under paragraph (1); or
 - (b) under any of sub-paragraphs (a), (b) and (c) of paragraph (2),
- shall not have effect until the expiry of the period of 21 days following the day on which the registrar gives the union or association notice in writing of the decision to cancel its registration.
- (8) If a notice of an appeal against the cancellation of the registration of the trade union or employer's association is given within that period of 21 days, the cancellation shall not in any event have effect until the appeal is disposed of.

15 Appeals

- (1) The following persons and bodies shall have a right of appeal under this Law to the Royal Court –
- (a) any applicant for the registration of a trade union or employers' association, against a refusal by the registrar under Article 10(1) to grant the application;
 - (b) a union or association, against a refusal by the registrar under Article 12(1) to grant an application for the amendment of the register in respect of the union or association;
 - (c) a union or association, against a refusal by the registrar under Article 13(1) to grant an application under that paragraph to cancel the registration of the union or association;
 - (d) a union or association, against a decision by the registrar under either of paragraphs (1) and (2) of Article 14 to cancel its registration; and
 - (e) an applicant under Article 14(3) for the cancellation of the registration of a union or association, against a refusal by the registrar under Article 14(2) to grant the application.

- (2) An appeal under this Article shall be brought within 21 days after the person or body who has the right of appeal is given notice in writing by the registrar of the decision to which the appeal relates.
- (3) On hearing the appeal, the Royal Court may confirm or reverse the decision of the registrar and may make such order as it thinks fit as to the costs of the appeal.

PART 3

STATUS OF TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

16 Status of trade unions and employers' associations

- (1) If a trade union or employers' association is unincorporated, it is capable –
 - (a) of making contracts; and
 - (b) of suing and being sued in its own name (whether in proceedings relating to property or founded on contract, tort or any other cause of action),but this paragraph is subject to paragraph (4).
- (2) If a trade union or an employers' association is unincorporated –
 - (a) all property belonging to the union or association shall be vested in trustees in trust for the union or association;
 - (b) proceedings for any offence that has allegedly been committed by or on behalf of the union or association may be brought against the union or association in its own name; and
 - (c) any judgment, order or award made in proceedings of any description that are brought against the union or association is enforceable against the property of the union or association.
- (3) A trade union may not be registered under the [Companies \(Jersey\) Law 1991](#) as a limited company, as defined in Article 3C of that Law.
- (4) A trade union or employers' association that is neither incorporated nor registered is incapable of suing in its own name.
- (5) This Article does not apply to a trade union, or employers' association, that is a fidéicommis over which the Royal Court has jurisdiction by virtue of Article 9 of the [Loi \(1862\) sur les teneures en fidéicommis et l'incorporation d'associations](#).

17 Exclusion of rules against restraint of trade

- (1) The purposes of a trade union or employers' association are not, by reason only that they are in restraint of trade, unlawful so as –
 - (a) to make any member of the union or association liable to criminal proceedings for conspiracy or for any other offence; or
 - (b) to make any agreement or trust void or voidable.
- (2) No rule of a trade union or employers' association is unlawful or unenforceable by reason only that it is in restraint of trade.

18 Employee's liability for breach of contract by industrial action

- (1) An employee is not liable in damages to his or her employer for a breach of the employee's contract of employment consisting of –
 - (a) a cessation of work;
 - (b) a refusal to work; or
 - (c) a refusal to work in a manner lawfully required by his or her employer, in contemplation or furtherance of an employment dispute.
- (2) This Article does not affect –
 - (a) any right or remedy of the employer, other than a remedy specified in paragraph (1); or
 - (b) any other liability of the employee, arising out of a breach of a contract of employment.

19 Immunities from liability in tort for industrial action

- (1) An act done by a person in contemplation or furtherance of an employment dispute is not actionable in tort by reason only –
 - (a) that it induces another person to break a contract or interferes or induces any other person to interfere with its performance;
 - (b) that it consists in the first person's threatening that a contract will be broken (whether or not it is one to which he or she is a party);
 - (c) that it consists in the first person's threatening that there will be interference with a contract (whether or not it is one to which he or she is a party); or
 - (d) that it consists in the first person's threatening that he or she will induce another person to break a contract or to interfere with its performance.
- (2) An agreement or combination by 2 or more persons to do or procure the doing of any act in contemplation or furtherance of an employment dispute is not actionable in tort if the act is one that, if done without any such agreement or combination, would not be actionable in tort.
- (3) An agreement or combination by 2 or more persons to do or procure the doing of any act in contemplation or furtherance of an employment dispute is not a criminal offence if such an act committed by one person would not be a criminal offence.

20 Limitations on immunities from liabilities in tort

- (1) Article 19 does not prevent an act done –
 - (a) by a trade union or employers' association; or
 - (b) by an official of a union or association,from being actionable in tort if at the time of the act the union or association is not registered.
- (2) Article 19 does not prevent an act done by a trade union from being actionable in tort if –

- (a) an approved code of practice provides for the holding of a ballot of members of the union before it does such an act; and
 - (b) a ballot in respect of the doing of the act has not been held in accordance with an approved code of practice, or a majority of those balloted do not support the doing of the act.
- (3) Article 19 does not prevent an act described in paragraph (1) of that Article from being actionable in tort if –
- (a) an approved code of practice defines conduct that is or is not reasonable conduct when done in contemplation or furtherance of an employment dispute; and
 - (b) one of the facts relied on for the purpose of establishing liability is that the act of the trade union constitutes conduct that, as so defined, is not reasonable conduct.

21 Limitation of damages

- (1) In any proceedings in tort brought against a registered trade union, the amount which may be awarded against the union by way of damages in those proceedings shall not exceed £10,000.
- (2) Paragraph (1) does not apply –
- (a) to any proceedings for negligence, nuisance or breach of duty, to the extent that the proceedings are in respect of personal injury to any person; or
 - (b) to any proceedings for breach of duty in connection with the ownership, occupation, possession, control or use of moveable or immoveable property.
- (3) The States may by Regulations vary the amount specified in paragraph (1).
- (4) In this Article –
- “duty” means a duty imposed by any enactment or other rule of law; and
- “personal injury” includes any disease or impairment of a person’s physical or mental condition.

PART 4

RESOLUTION OF COLLECTIVE EMPLOYMENT DISPUTES

22 Jurisdiction in respect of collective employment disputes

- (1) Proceedings may be brought before the Jersey Employment Tribunal in respect of a collective employment dispute –
- (a) with the consent of each party to the dispute; or
 - (b) at the request of any party to the dispute, in the circumstances described in paragraph (2).
- (2) The circumstances to which this paragraph refers are –

- (a) that the body or person making the request considers that as far as is practicable all other available procedures have been applied unsuccessfully to seek to resolve the dispute; and
 - (b) that a party to the dispute is acting unreasonably in the way in which that party is or is not complying with an available procedure.
- (3) For the purposes of paragraph (2), a procedure is an available procedure if –
- (a) it is a procedure for the resolution of the dispute that is contained in a collective agreement, a relevant contract of employment or a relevant handbook for employees;
 - (b) it is a procedure for the resolution of the dispute in accordance with an approved code of practice; or
 - (c) it is a procedure for the resolution of the dispute that is otherwise established within the trade or industry concerned by this Law or any other Law.
- (4) In deciding whether or not a party to the dispute is acting unreasonably in the way in which that party is or is not complying with an available procedure in a relevant handbook for employees, regard shall be had to whether or not the handbook has been agreed by or on behalf of the parties to the dispute, but this paragraph does not limit the generality of paragraph (2)(b).

23 Orders and declarations in collective employment disputes

- (1) On hearing proceedings in respect of a collective employment dispute that are brought before the Tribunal, it may make –
- (a) with the consent of each party to the dispute, an order that is binding on the parties; or
 - (b) a declaration.
- (2) A declaration under paragraph (1) may relate to any of the following things –
- (a) the opinion of the Tribunal as to whether any party to the dispute is not observing any relevant terms and conditions;
 - (b) the interpretation of any terms and conditions of a collective agreement that are relevant to the dispute;
 - (c) the incorporation into the individual contracts of employment of the employees to whom the dispute relates of any terms and conditions to which either of sub-paragraphs (a) and (b) refers; or
 - (d) in the case of a recognition dispute, the opinion of the Tribunal as to whether the trade union is recognized as being entitled to conduct, on behalf of any employee or employees, collective bargaining with the employer or employers in respect of any matter relating to pay, hours of work or holidays.⁸
- (2A) A declaration to which paragraph (2)(d) refers may specify a method by which collective bargaining shall be carried out, and a method so specified shall have effect as if it were contained in a legally enforceable contract made between the employer or employers and the trade union.⁹
- (3) In paragraph (2)(a), “any relevant terms and conditions” means –

- (a) any terms and conditions of employment that are, in the opinion of the Tribunal, applicable to the case; or
- (b) any terms and conditions of employment that are, in the opinion of the Tribunal, not less favourable to the employee or employees concerned than the terms and conditions to which sub-paragraph (a) refers.

24 Incorporation of terms and conditions into contracts of employment

- (1) Where the Tribunal makes a declaration under Article 23 that any terms and conditions specified in the declaration are to be incorporated into the individual contract of employment of any employee, it shall from the operative date be a term of the contract of employment between the employer and the employee that those terms and conditions shall be terms and conditions of the contract –
 - (a) until they are varied by subsequent agreement between the parties or (with effect from the operative date of a subsequent declaration of the Tribunal) by that subsequent declaration; or
 - (b) until different terms and conditions of employment in respect of the employee concerned are settled through the machinery of negotiation, mediation, conciliation or arbitration for the settlement of terms and conditions of employment in the trade or industry or the undertaking in which the employee concerned is employed.
- (2) In paragraph (1), “the operative date” means –
 - (a) the date on which the Tribunal makes the declaration, if no other operative date is specified in the declaration; or
 - (b) such other operative date as the Tribunal may direct in the declaration, not being earlier than the date on which the collective employment dispute to which the declaration relates first arose.

24A Enforcement of declaration in recognition dispute¹⁰

A declaration to which Article 23(2)(d) refers –

- (a) shall have effect as if it were a legally enforceable contract made between the parties to the collective employment dispute to which the declaration relates; and
- (b) shall be enforceable in the Royal Court by but only by an order for specific performance.

PART 5

OTHER PROVISIONS

25 Approval of codes of practice

- (1) The Minister may, subject to this Article, by Order approve any code of practice for the purposes of this Law.¹¹
- (2) An approved code may in particular provide for any of the following matters, namely –

- (a) the recognition of trade unions;
 - (b) the manner in which ballots of members of trade unions may be held to support the doing of acts by unions in contemplation or furtherance of employment disputes;
 - (c) conduct that is or is not reasonable conduct when done in contemplation or furtherance of employment disputes; and
 - (d) recommended procedures for the resolution of employment disputes.
- (3) Before approving a code of practice, the Minister shall publish a notice in the Jersey Gazette –
- (a) stating that a copy of the code of practice will be available for inspection during normal working hours, free of charge, at a place specified in the notice;
 - (b) specifying a period during which it will be available for inspection (being a reasonable period of not less than 21 days, beginning after the notice is published); and
 - (c) explaining that anyone may make representations in writing to the Minister in respect of the code of practice at any time before the expiry of the 7 days following the period for inspection,
- and the Minister shall make a copy of the code of practice available accordingly for inspection.¹²
- (4) Before approving the code of practice, the Minister shall also consult –
- (a) the Jersey Advisory and Conciliation Service;
 - (b) the Employment Forum;
 - (c) the Chief Minister, in respect of international agreements and international obligations that relate to employment relations and are binding on Jersey; and
 - (d) such other persons as the Minister considers will be affected, or representatives of such persons.¹³
- (5) The Minister shall not proceed to decide whether or not to approve the code of practice until the time limit under paragraph (3) for making representations has elapsed.¹⁴
- (6) In deciding whether or not to approve the code of practice, the Minister shall consider all representations made under this Article in respect of the proposal.¹⁵
- (7) An Order approving a code of practice shall not come into force before the expiry of the period of 28 days commencing on the day on which it is laid before the States.

26 Failure to comply with an approved code of practice

- (1) A failure on the part of any person, trade union or employers' association to observe any provision of an approved code of practice issued under this Law does not of itself render that person, union or association, or any member of the union or association, liable to any proceedings.
- (2) However, paragraph (1) is subject to Article 20(2).

- (3) In any proceedings before a court or before the Tribunal, an approved code of practice is admissible in evidence.
- (4) If it appears to the court or the Tribunal that any provision in an approved code of practice is relevant to any question arising in the proceedings, the court or the Jersey Employment Tribunal shall take that provision into account in determining the question.

27 Regulations

- (1) The States may make Regulations for any of the following purposes –
 - (a) prescribing information for the purposes of paragraphs (3) and (4) of Article 8;
 - (b) prescribing forms of application for the purposes of this Law;
 - (c) prescribing application fees for the purposes of any of Articles 9(7), 11(5) and 13(3);
 - (d) prescribing the forms of certificates of registration of trade unions and employers' associations, for the purposes of Article 10(3);
 - (e) varying the amount for the time being specified in Article 21(1);
 - (f) requiring trade unions and employers' associations to keep proper accounts of their financial transactions and their assets and liabilities;
 - (g) prescribing procedures to be applied by unions and associations for the proper control of their accounting records, cash holdings and receipts and payments;
 - (h) requiring unions and associations to have their accounts audited periodically;
 - (i) prescribing qualifications for auditors for the purposes of this Law;
 - (j) requiring unions and associations to deliver periodically to the registrar prescribed returns of information;
 - (k) prescribing information to be provided, periodically or otherwise, by unions and associations to their members;
 - (l) providing for any other matters that may be prescribed under any other provision of this Law.
- (2) Regulations made under this Article may in the case of trade unions and employers' associations also impose on any trustees of their property, in respect of such property, the same requirements as may be imposed on unions and associations under any of sub-paragraphs (f), (g), (h), (k) and (j) of paragraph (1).
- (3) Regulations made under this Article may provide that any contravention of a Regulation shall be an offence, and may provide that any such offence shall be punishable by a fine.

28 Citation

This Law may be cited as the Employment Relations (Jersey) Law 2007.

ENDNOTES

Table of Legislation History

| Legislation | Year and No | Commencement |
|---|----------------------------------|---|
| Employment Relations (Jersey) Law 2007 | L.3/2007 | 21 January 2008 (R&O.134/2007) |
| Employment Relations (Amendment No. 2) (Jersey) Law 2007 | L.22/2007 | 21 January 2008 (R&O.135/2007) |
| States of Jersey (Implementation) (Jersey) Regulations 2007 | R&O.165/2007 | 21 January 2008 |
| Discrimination (Jersey) Law 2013 | L.10/2013 | 1 September 2014 (R&O.28/2014) |

Table of Renumbered Provisions

| Original | Current |
|----------|----------------|
| 28 | Spent, omitted |
| 29(1) | 28 |
| 29(2) | Spent, omitted |
| Schedule | Spent, omitted |

Table of Endnote References

| | |
|-----------------------------|--|
| ¹ Article 1(1) | <i>amended by L.22/2007, R&O.165/2007, L.10/2013</i> |
| ² Article 1(2) | <i>added by L.10/2013</i> |
| ³ Article 5(2A) | <i>inserted by L.22/2007</i> |
| ⁴ Article 5(2B) | <i>inserted by L.22/2007</i> |
| ⁵ Article 5(3) | <i>amended by R&O.165/2007</i> |
| ⁶ Article 6(2) | <i>amended by R&O.165/2007</i> |
| ⁷ Article 8(1) | <i>amended by R&O.165/2007</i> |
| ⁸ Article 23(2) | <i>amended by L.22/2007</i> |
| ⁹ Article 23(2A) | <i>inserted by L.22/2007</i> |
| ¹⁰ Article 24A | <i>inserted by L.22/2007</i> |
| ¹¹ Article 25(1) | <i>amended by R&O.165/2007</i> |
| ¹² Article 25(3) | <i>amended by R&O.165/2007</i> |
| ¹³ Article 25(4) | <i>amended by R&O.165/2007</i> |
| ¹⁴ Article 25(5) | <i>amended by R&O.165/2007</i> |
| ¹⁵ Article 25(6) | <i>amended by R&O.165/2007</i> |