



Jersey

**EMPLOYMENT OF
STATES OF JERSEY EMPLOYEES
(JERSEY) LAW 2005**

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EMPLOYMENT OF STATES OF JERSEY EMPLOYEES (JERSEY) LAW 2005

Arrangement

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Jersey

EMPLOYMENT OF STATES OF JERSEY EMPLOYEES (JERSEY) LAW 2005

A LAW relating to the establishment of the States Employment Board, the employment under contract of persons by that Board on behalf of the States or an administration of the States, the determination by the Board of the terms and conditions of such contracts of employment, the establishment of the Appointments Commission to oversee the appointment of persons to significant public positions and determine procedures for the appointment of States' employees and certain persons employed by other persons on behalf of the States, the regulation of certain political activities of certain States' employees, to amend various enactments and for connected purposes.¹

Commencement [[see endnotes](#)]

PART 1

PRELIMINARY MATTERS

1 Interpretation

In this Law, unless the context otherwise requires –

“administration of the States” means –

- (a) a department established on behalf of the States; and
- (b) a body, office, or unit of administration, established on behalf of the States (including under an enactment),

the employees of which are employed by the States Employment Board;

“Chief Executive Officer” has the meaning assigned by Article 3;

“Commission” means the Jersey Appointments Commission established by Article 17;

“Commissioner” means a person appointed under Article 18 to be a Commissioner and includes the Chairman of the Commission appointed under that Article;

“contract of employment” includes a contract of apprenticeship;

“independent body” means an office, or a Tribunal, Commission, trust, fund, council, panel, committee, or other body of persons (apart from the States Employment Board) –

- (a) that is an office or body established or maintained by or on behalf of the States; and
- (b) that is an office or body –
 - (i) which employs persons under contracts of employment, or
 - (ii) in relation to which persons are appointed, or elected, on terms and conditions that are determined otherwise than in a contract of employment (whether or not other persons also hold the office, or are also appointed or elected to the body, under terms and conditions that are determined in a contract of employment);

“member”, in relation to the States Employment Board, means any of the persons who constitute the Board under Article 5;

“public service” means the service consisting of States’ employees;

“recruitment” includes, but is not limited to including –

- (a) the determination of the duties, responsibilities and pre-requisites for employment or appointment as the holder of an office;
- (b) the determination of the publications in which advertisements seeking applications for employment or appointment as the holder of an office are to be placed or other methods by which applicants for such employment or appointment are to be sought, and the timing of placement in such publications or the use of such methods;
- (c) the timing and conduct of interviews of prospective candidates for employment as the holder of an office; and
- (d) the selection of a person to be employed or appointed as the holder of an office;

“senior States’ office” means an office that is prescribed or determined under Article 16(1) or (2);

“States’ employee” has the meaning assigned by Article 2.²

2 Meaning of “States’ employee”

- (1) In this Law, unless the context otherwise requires, “States’ employee” means –
 - (a) a person who is employed under a contract of employment made between the person and the States Employment Board; and
 - (b) a person who is within a class of persons prescribed under paragraph (2),

but does not include a person who is within a class of persons prescribed under paragraph (3).

- (2) The Chief Minister may prescribe by Order a class of persons to be States' employees for the purposes of this Law.
- (3) The Chief Minister may prescribe by Order a class of persons to not be States' employees for the purposes of this Law.
- (4) A person shall not be a States' employee for the purposes of this Law if he or she is –
 - (a) the holder of an office specified in Schedule 1;
 - (b) appointed by the Crown;
 - (c) a member of the States of Jersey Police Force; or
 - (d) otherwise an officer of the Crown.³

3 Chief Executive Officer

- (1) There shall be a Chief Executive Officer.
- (2) The Chief Executive Officer shall be the person employed under this Law as the Chief Executive to the Council of Ministers and Head of the Public Service.
- (3) The Chief Executive Officer shall be responsible for the administration and general management of the public service.

PART 2

STATES EMPLOYMENT BOARD

4 States Employment Board

- (1) The States Employment Board shall be established.
- (2) The States Employment Board shall be a body corporate with perpetual succession and may –
 - (a) sue and be sued in its corporate name; and
 - (b) so far as possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.

5 Membership of States Employment Board

- (1) The States Employment Board shall be constituted by –
 - (a) the Chief Minister, or another Minister who is nominated by the Chief Minister to be a member of the Board in his or her place;
 - (b) 2 other persons, each of whom –
 - (i) is a Minister or an Assistant Minister, and

- (ii) is appointed in writing by the Chief Minister to be a member of the Board; and
- (c) 2 elected members of the States, each of whom –
 - (i) is neither a Minister nor an Assistant Minister, and
 - (ii) is elected by the States to be a member of the Board.⁴
- (2) The Chief Minister or, if the Chief Minister nominates a person under paragraph (1) to be a member of the Board in his or her place, that person, shall be the Chairman of the States Employment Board.

6 Meetings of States Employment Board

- (1) At a meeting of the States Employment Board –
 - (a) the States Employment Board may appoint a person to be the Vice-Chairman;
 - (b) the quorum of the States Employment Board shall be constituted by 3 of its members;
 - (c) the Chairman, or, in the absence of the Chairman, the Vice-Chairman, or in the absence of both the Chairman and the Vice-Chairman, another member of the States Employment Board who is present at the meeting and is elected by the members of the States Employment Board who are present, shall preside;
 - (d) each member shall have one vote on each matter for deliberation;
 - (e) a decision shall be made by a majority of the votes of the members of the States Employment Board present at the meeting at which the decision is made; and
 - (f) if a vote is tied, it shall be taken to have been lost.⁵
- (2) A resolution shall be a valid resolution of the States Employment Board, even though it was not passed at a meeting of the States Employment Board, if –
 - (a) it is signed or assented to by a majority of the members of the States Employment Board; and
 - (b) notice of the proposed resolution was given in accordance with paragraph (6) to all the members of the States Employment Board.
- (3) The States Employment Board shall keep minutes of its proceedings.
- (4) The States Employment Board shall meet when convened by the Chairman.
- (5) The Chairman –
 - (a) may convene a meeting of the States Employment Board of his or her own motion; and
 - (b) shall convene a meeting of the States Employment Board if requested to do so by notice in writing signed by at least one of the members of the States Employment Board.
- (6) Subject to this Law, the States Employment Board may regulate its own proceedings (including the period of notice to be given of any meeting of the Board) and may adopt or amend rules for that purpose.

- (7) The States Employment Board may invite any person to attend, and to speak at, a meeting of the States Employment Board.

7 Liability

- (1) No person to whom this Article applies shall be liable in damages for anything done or omitted in the discharge of any functions under this Law, unless the act or omission was in bad faith.
- (2) This Article applies to the States Employment Board, any member of the States Employment Board, or any person who is under this Law a delegate of the States Employment Board or the Chief Executive Officer or otherwise acting with the authority of the States Employment Board.

PART 3

EMPLOYMENT OF MEMBERS OF PUBLIC SERVICE

8 Functions of States Employment Board

- (1) The States Employment Board shall have the following functions –
- (a) to determine policy relating to the employment of, and the terms and conditions of employment of, States' employees, other than procedures for recruitment of States' employees;
 - (b) to ensure that the public service conducts itself with economy, efficiency, probity and effectiveness; and
 - (c) to ensure the health, safety and well-being of States' employees.
- (2) The States Employment Board shall also have the following functions –
- (a) to employ persons on behalf of the States and administrations of the States;
 - (b) where appropriate, to consult or negotiate with States' employees, or representatives of States' employees, collective agreements as to the terms and conditions of employment of States' employees;
 - (c) to determine the employee training and development needs of States' employees and appropriate procedures for appraisal and transfer of States' employees;
 - (d) to discipline, suspend, or terminate the employment of, States' employees;
 - (e) to determine salaries, allowances, pensions and gratuities as required under the Departments of the Judiciary and the Legislature (Jersey) Law 1965⁶;
 - (f) to determine other matters that may reasonably be considered necessary for the proper administration and management of States' employees;
 - (g) any other function conferred on it by or under an enactment.

9 Powers of States Employment Board

- (1) The States Employment Board has the powers necessary to perform its functions.
- (2) Without limiting the generality of paragraph (1), the States Employment Board has the power to enter into contracts of employment of persons and to enter into contracts for the provision of services, including by consultants.

10 Delegation

- (1) The States Employment Board may, by instrument in writing, delegate to any of its members, or to the Chief Executive Officer, any of its powers or functions under this Law.
- (2) If a power or function has been delegated under paragraph (1) to a member of the States Employment Board, the member may, with the approval of the States Employment Board, delegate by instrument in writing the power or function to the Chief Executive Officer.
- (3) If a power or function has been delegated under paragraph (1) or (2) to the Chief Executive Officer, he or she may, with the approval of the States Employment Board, delegate by instrument in writing the power or function to another person who is –
 - (a) a person approved by the States Employment Board; or
 - (b) a member of a class of persons approved by the States Employment Board.

11 Annual Report

The States Employment Board shall provide to the States, within 3 months after the end of each calendar year, a report in respect of the States Employment Board's activities under this Law during the year.

12 Only States Employment Board to employ persons on behalf of States

- (1) Subject to any other enactment, whether in force before or after this Law comes into force, no person or body other than the States Employment Board may enter into contracts of employment with persons on behalf of the States or an administration of the States.
- (2) The States may, by Regulation, specify that paragraph (1) shall not apply in relation to the employment of a person or persons to an office, or a class of offices, prescribed by the Regulation.

13 Statutory offices

Nothing in this Law apart from Part 5 shall be taken to affect a power, if any, under an enactment of the States to appoint a person to an office or to terminate under such an enactment the appointment of a person to an office, including but not limited to an office specified in Schedule 1.⁷

PART 4**JERSEY APPOINTMENTS COMMISSION***Application of Part***14 Interpretation**

In this Part –

“former Appointments Commission” means the Appointments Commission established by Act of the States on 28th May 2002;

“States’ appointee” means a person prescribed or determined under Article 15(3) or (4) to be a States’ appointee for the purposes of this Part;

“States’ employee” means a person prescribed or determined under Article 15(1) or (2) to be a States’ employee for the purposes of this Part.⁸

15 This Part may be extended to apply to independent bodies

- (1) The States may, by Regulation, prescribe to be States’ employees for the purposes of this Part the holders from time to time of prescribed offices, or prescribed classes of offices, who are employed under contracts of employment by independent bodies and who would not otherwise be States’ employees for the purposes of this Part.
- (2) The Commission may, by instrument in writing, determine to be States’ employees for the purposes of this Part (in addition to the holders of offices or classes, if any, prescribed under paragraph (1)) the holders from time to time of offices, or classes of offices, that are specified in the instrument, who are employed by independent bodies and who would not otherwise be States’ employees for the purposes of this Part.⁹
- (3) The States may, by Regulation, prescribe to be States’ appointees for the purposes of this Part the holders from time to time of prescribed offices, or prescribed classes of offices, who are appointed or elected to, or hold office with, independent bodies.¹⁰
- (4) The Commission may, by instrument in writing, determine to be States’ appointees for the purposes of this Part (in addition to the holders of offices or classes, if any, prescribed under paragraph (3)) the holders from time to time of offices, or classes of offices, that are specified in the instrument and who are appointed or elected to, or hold office with, independent bodies.¹¹

16 Senior States’ offices

- (1) The States may prescribe, by Regulation, the offices of States’ employees or States’ appointees, or the classes of offices of States’ employees or States’ appointees, that are to be senior States’ offices for the purposes of this Part.¹²

- (2) The Commission may, in writing, determine the offices of States' employees or States' appointees, or the classes of offices of States' employees or States' appointees, that are to be senior States' offices for the purposes of this Part, in addition to the offices or classes, if any, prescribed under paragraph (1).¹³

Establishment of Jersey Appointments Commission

17 Jersey Appointments Commission established

- (1) The Jersey Appointments Commission shall be established.
- (2) The Commission shall consist of –
- (a) a Chairman; and
 - (b) not more than 4 other Commissioners,
- appointed under Article 18.
- (3) The former Appointments Commission shall cease to exist on and from the date on which this Article comes into force.

18 Membership of Commission

- (1) Commissioners shall be appointed by the States on the recommendation of the Chief Minister.
- (2) The Chief Minister may only recommend a person under paragraph (1) with the approval of the States Employment Board.
- (3) The States Employment Board may only approve a person for the purposes of paragraph (2) if it is of the opinion that the person has expertise and experience in –
- (a) recruitment within the public or private sectors;
 - (b) management at a senior level in the public, private, academic or voluntary sectors; or
 - (c) other matters relevant to the powers and functions of a Commissioner.
- (4) Subject to this Article and Article 19, the Chairman shall hold office for 4 years but may be re-appointed.
- (5) A Commissioner (other than the Chairman) shall hold office, subject to this Law, for the period of not more than 4 years that is specified in his or her instrument of appointment, but may be re-appointed.
- (6) A person shall not be appointed to be a Commissioner if he or she is a member of the States or a States' employee.¹⁴
- (7) A person shall not be re-appointed as a Commissioner if the re-appointment would have the effect that he or she would be a Commissioner for more than 8 consecutive years, unless he or she is the Chairman during the subsequent years for which he or she would be re-appointed.

- (8) A person shall not be appointed to be the Chairman for more than 8 consecutive years.
- (9) For the purposes of paragraphs (7) and (8), any period before the commencement of this Law during which a person was a Commissioner, or the Chairman, of the former Appointments Commission shall be taken to be a period of appointment as a Commissioner, or the Chairman, as the case may be, under this Law.
- (10) A Commissioner shall be appointed on the terms and conditions specified by the States Employment Board.
- (11) The remuneration of a Commissioner shall not be reduced during the period of his or her appointment.
- (12) No term or condition of the appointment of a Commissioner shall be altered during the period of the appointment without the agreement of the Commissioner.

19 Removal from office of member of Commission

- (1) The States may dismiss a Commissioner on the grounds it thinks fit.
- (2) The Commission may notify the Chief Minister that it is of the opinion that the States should dismiss a Commissioner because –
 - (a) the Commissioner, without reasonable cause and without giving reasonable notice to the Commission, failed to attend 3 consecutive meetings of the Commission;
 - (b) the Commission is of the opinion that the Commissioner is incompetent or incapable of carrying out the Commissioner's functions under this Law; or
 - (c) the Commission is of the opinion, on reasonable grounds, that the Commissioner is not capable of exercising independent judgment in relation to the appointment of States' employees or States' appointees.¹⁵
- (3) The Chief Minister shall inform the States of an opinion of which he or she has been notified under paragraph (2).
- (4) A person shall cease to hold the office of Commissioner if he or she becomes a member of the States or a States' employee.¹⁶
- (5) A Commissioner may, by notice in writing to the Chief Minister, resign as a Commissioner.

20 Deputy Chairman and Secretary and Executive Officer of Commission

- (1) The Commission shall appoint one of its members to be the Deputy Chairman, to act as the Chairman in the absence of the Chairman.
- (2) The Commission shall appoint a person to be the Secretary and Executive Officer of the Commission.

21 Meetings of the Commission

- (1) The Commission shall meet at least 4 times each year.
- (2) At a meeting of the Commission –
 - (a) the quorum shall be constituted by 3 Commissioners;
 - (b) one of the Commissioners at the meeting shall be –
 - (i) the Chairman,
 - (ii) in the absence of the Chairman, the Deputy Chairman, or
 - (iii) in the absence of the Chairman and the Deputy Chairman, a person nominated at the meeting to carry out the functions of the Chairman at the meeting;
 - (c) the Chairman, or, in the absence of the Chairman, the Deputy-Chairman, or in the absence of both the Chairman and the Deputy-Chairman, the person nominated under sub-paragraph (b)(iii), shall preside;
 - (d) each Commissioner shall have one vote on each matter for deliberation;
 - (e) a decision of the Commission shall be made by a majority of the votes of the Commissioners present at the meeting at which the decision is made; and
 - (f) if a vote is tied, it shall be taken to have been lost.¹⁷
- (3) A decision under paragraph (2) at a meeting is of no effect unless each Commissioner was given at least 24 hours prior notice of the meeting of the Commission or all the Commissioners are present at the meeting.
- (4) The Commission may invite any person to attend at, and to speak at, a meeting of the Commission.

22 Minutes of meetings of the Commission

- (1) The Secretary and Executive Officer of the Commission shall prepare draft minutes of each meeting of the Commission and ensure they are laid before the Commission at its next meeting.
- (2) The Commission shall, at the next meeting of the Commission, adopt minutes of the previous meeting.
- (3) The Secretary and Executive Officer of the Commission shall retain copies of minutes adopted under paragraph (2) and ensure that the minutes may be examined, on demand, by a Commissioner.

*Powers and function of Commission***23 Function of Commission**

The function of the Commission is to oversee the recruitment of States' employees or States' appointees so as to ensure that, as far as practicable –

-
- (a) the recruitment of persons as States' employees or States' appointees is fair, efficient and conducted in accordance with best practice principles and procedures;
 - (b) States' employees or States' appointees are appointed on merit; and
 - (c) members of the States are only involved in the recruitment of States' employees or 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.¹⁸

24 Guidelines

- (1) The Commission shall from time to time produce and review guidelines that are to apply in relation to the recruitment of States' employees or States' appointees.¹⁹
- (2) Guidelines produced under paragraph (1) shall contain details as to –
 - (a) how recruitment of States' employees or States' appointees is to be performed;
 - (b) the grounds on which States' employees or States' appointees are to be selected; and
 - (c) the circumstances in which a member of the States may be involved in the recruitment of States' employees or States' appointees.²⁰
- (3) The Commission shall ensure that guidelines produced under paragraph (1) are available for viewing by any person.
- (4) The Commission shall take all reasonable steps to ensure that guidelines produced under paragraph (1) are followed in relation to the recruitment of States' employees or States' appointees.²¹

25 Audit of recruitment practices

- (1) The Commission may carry out, or order to be carried out, an audit of the recruitment practices in relation to –
 - (a) States' employees of an administration of the States; or
 - (b) States' employees, or States' appointees, of an independent body.²²
- (2) The Commission may require a person to provide information to the Commission, or to another person, carrying out an audit under paragraph (1).
- (3) The Commission shall, within 3 months of the completion of an audit under paragraph (1) in relation to States' employees of an administration of the States, produce a report in relation to the audit and provide a copy of the report to –
 - (a) the States Employment Board;
 - (b) the Chief Executive Officer; and
 - (c) the head of the administration of the States.²³

- (4) The Commission shall, within 3 months of the completion of an audit under paragraph (1) in relation to States' employees, or States' appointees of an independent body, produce a report in relation to the audit and provide a copy of the report –
 - (a) to the head of the independent body to which the audit relates; and
 - (b) if an administration of the States is accountable to the States in relation to the independent body – to the head of the administration of the States.²⁴
- (5) A report under paragraph (3) or (4) may contain recommendations arising from the audit conducted under paragraph (1) to which the report relates.
- (6) A person who fails, without reasonable excuse, to comply with a requirement under paragraph (2) commits an offence and shall be liable to a penalty of level 2 on the standard scale.

26 Recruitment of persons to senior States' offices

- (1) The Commission may give a notice in writing under this paragraph to –
 - (a) the Chief Executive Officer;
 - (b) the head of an administration of the States; or
 - (c) the head of an independent body.
- (2) A notice under paragraph (1) shall require the person to whom it is given to give, to a person nominated by the Commission in the notice to be an observer, 14 days notice before the commencement of recruitment of a person to be employed or appointed as the holder of –
 - (a) a senior States' office; or
 - (b) an office that is a member of a class of senior States' offices.²⁵
- (3) The head of an administration of the States, or of an independent body, to whom a notice is given under paragraph (1) shall, unless otherwise advised by the Commission, ensure that the person nominated in the notice to be an observer is informed of any meeting taking place relating to the recruitment of a person to be employed or appointed as the holder of a senior States' office to which the notice relates.²⁶
- (4) A person nominated by the Commission in a notice under paragraph (1) to be an observer is entitled to attend any meeting that takes place relating to the recruitment of a person to be employed or appointed as the holder of a senior States' office to which the notice relates.²⁷
- (5) In this paragraph, "meeting" includes, but is not limited to including –
 - (a) a meeting at which persons decide who is to be interviewed or who is to be employed or appointed as the holder of an office; and
 - (b) a meeting at which a candidate for employment or appointment as the holder of an office is interviewed or assessed following an interview.²⁸

27 Report to be made to States Employment Board in certain circumstances

- (1) The Commission shall produce a report, and provide a copy of the report to the States Employment Board, if the Commission is not satisfied that –
 - (a) the recruitment of a States' employee or States' appointee was in accordance with the principles set out in Article 23; or
 - (b) Article 26 has been complied with.²⁹
- (2) A report under paragraph (1) shall set out the reasons why the Commission is dissatisfied and the facts on which those reasons are based.

28 Reports

- (1) The States may direct the Commission –
 - (a) to prepare a report in relation to a matter specified in the direction within the period specified in the direction; or
 - (b) to include in a report for the purposes of paragraph (4) a report in relation to a matter specified in the direction.
- (2) The Commission shall comply with a direction under paragraph (1).
- (3) A report prepared in accordance with a direction under paragraph (1)(a) shall be delivered to the States Employment Board.
- (4) The Commission shall, within 3 months after the end of each calendar year, prepare and deliver to the States Employment Board, a report on –
 - (a) the Commission's activities during that calendar year;
 - (b) any matter in relation to which a report has been given under Article 25 or 27 during that calendar year;
 - (c) any matter specified in a direction under paragraph (1)(b) to be a matter that is to be included in the Commission's report for that calendar year; and
 - (d) other matters the Commission thinks fit.
- (5) The Chief Minister shall, within 30 days after a report is delivered to the States Employment Board in accordance with paragraph (3) or (4), lay the report before the States.

29 States may direct Commission

- (1) The States may direct the Commission to carry out under this Part any of its functions, or exercise any of its powers, in relation to –
 - (a) an administration of the States specified by the States in the direction; or
 - (b) an independent body.
- (2) A direction under paragraph (1) may specify the action that the Commission shall take under this Law.

- (3) The Commission shall comply with a direction of the States under paragraph (1).

PART 5³⁰

POLITICAL ACTIVITIES OF STATES' EMPLOYEES

Interpretative provisions

30 Interpretation³¹

- (1) In this Part, unless the context otherwise requires –
- “politically eligible States’ employee” has the meaning assigned to that expression by Article 31;
- “politically ineligible States’ employee” has the meaning assigned to that expression by Article 31.
- (2) In this Part, a reference to a States’ employee taking public part in a political matter includes, but is not limited to including, a reference to the employee –
- (a) speaking publicly on a political matter;
 - (b) writing letters to newspapers, or writing pamphlets, leaflets or books, in relation to political matters;
 - (c) standing for election as a Senator, Deputy or Connétable; or
 - (d) publicly supporting any other person standing for election as a Senator, Deputy or Connétable,
- but does not include –
- (i) taking part in any activities organized by a trade union; or
 - (ii) expressing the legitimate interests of members of a trade union or trade unions, when acting as a representative of a trade union.

31 Meaning of “politically eligible States’ employee” and “politically ineligible States’ employee”³²

- (1) In this Part, a States’ employee is a politically eligible States’ employee if he or she –
- (a) is a member of a class of States’ employees specified in Schedule 2;
 - (b) is a member of any class of States’ employees not specified in Schedule 2 or 3; or
 - (c) holds a position as a States’ employee that is classified under Article 32(2) as a position occupied by a politically eligible States’ employee.
- (2) In this Part, a States’ employee is a politically ineligible States’ employee if he or she –

-
- (a) is a member of a class of States' employees specified in Schedule 3; or
 - (b) holds a position as a States' employee that is classified under Article 33(2) as a position occupied by a politically ineligible States' employee.
- (3) In this Part, a person who is a politically ineligible States' employee in respect of a position occupied as a States' employee shall be a politically ineligible States' employee in respect of all positions he or she occupies as a States' employee.

Political classification of States' employees

32 Request by politically ineligible States' employee for re-classification of political status³³

- (1) A States' employee who is a politically ineligible States' employee may apply to the States Employment Board for his or her position as a States' employee to be classified as a position occupied by a politically eligible States' employee.
- (2) The States Employment Board, may, after receiving an application from a States' employee under paragraph (1) in relation to a position, classify, or refuse to classify, the position as a position occupied by a politically eligible States' employee.
- (3) The States Employment Board may, under paragraph (2), only classify a position as a position occupied by a politically eligible States' employee if it is satisfied that –
 - (a) the nature of the information to which the States' employee has access;
 - (b) the degree to which the States' employee is involved in the determination or deliberation of policy at a ministerial level;
 - (c) the extent, if any, to which the position requires the holder to regularly speak to members of the public on behalf of a Minister or a department or unit of administration; and
 - (d) the degree of contact that the States' employee has with elected members of the States,are such that to enable the holder of the position to take public part in any political matter would not inhibit, or appear to inhibit, loyal and effective service to a Minister or the States.
- (4) The Chief Minister shall notify the States of any classification made by the States Employment Board under paragraph (2), at the next sittings of the Assembly after the classification is made.

33 Request by Chief Officer for re-classification of political status of politically eligible States' employee³⁴

- (1) The Chief Officer of a department or a unit of administration may apply to the States Employment Board for the position of a politically eligible States' employee who is employed in the department or unit of administration to be classified as a position occupied by a politically ineligible States' employee.
- (2) The States Employment Board, may, after receiving an application under paragraph (1) in relation to a position, classify, or refuse to classify, the position as a position occupied by a politically ineligible States' employee.
- (3) The States Employment Board may, under paragraph (2), only classify a position as a position occupied by a politically ineligible States' employee if it is satisfied that –
 - (a) the nature of the information to which the States' employee has access;
 - (b) the degree to which the States' employee is involved in the determination or deliberation of policy at a ministerial level;
 - (c) the extent, if any, to which the position requires the holder to regularly speak to members of the public on behalf of a Minister or a department or unit of administration; and
 - (d) the degree of contact that the States' employee has with elected members of the States,are such that to enable the holder of the position to take public part in any political matter may inhibit, or appear to inhibit, loyal and effective service to a Minister or the States.
- (4) The Chief Minister shall notify the States of any classification made by the States Employment Board under paragraph (2), at the next sittings of the Assembly after the classification is made.

*Politically eligible States' employees***34 Political activities of politically eligible States' employees³⁵**

- (1) A politically eligible States' employee may take public part in any political matter.
- (2) However, the States' Employment Board may, by notice in writing to a States' employee who is a politically eligible States' employee, discipline the employee, or terminate his or her employment as a States' employee, if the employee has engaged in behaviour that constitutes gross misconduct within the meaning of paragraph (3).
- (3) A politically eligible States' employee shall be taken to have engaged in behaviour that constitutes gross misconduct if while he or she is a States' employee he or she has, in the course of taking public part in any political matter –
 - (a) commented on existing States' policies in an immoderate manner;

- (b) engaged in personal attacks on members of the States; or
- (c) used for political purposes information that the person was only able to obtain because the person is a States' employee.

35 Re-employment of politically eligible States' employees³⁶

- (1) Nothing in this Part, apart from paragraph (2), shall be taken to prevent the re-employment as a States' employee of a person who was a politically eligible States' employee.
- (2) The States Employment Board may refuse to re-employ as a States' employee a person who was a politically eligible States' employee if the Board determines that –
 - (a) the person engaged in behaviour while a States' employee that constituted gross misconduct under Article 34; and
 - (b) the behaviour is such that the person ought not be re-employed as a States' employee.

36 Where politically eligible States' employee intends to stand for election³⁷

- (1) A politically eligible States' employee who intends to stand for election as a Senator, Deputy or Connétable shall, as soon as reasonably practicable, notify the Chief Officer of the department or unit of administration in which the employee is employed.
- (2) A politically eligible States' employee shall take leave for the period commencing with the day of his or her public nomination for office and ending with whichever is the earlier of –
 - (a) his or her resignation from employment as a States' employee; or
 - (b) his or her return to work under Article 37(3).³⁸
- (2A) If –
 - (a) a politically eligible States' employee has insufficient annual and other leave accrued, in accordance with the terms of his or her employment, that the employee may take to comply with paragraph (2); or
 - (b) the employee does not wish to take all or any of that leave to comply with paragraph (2),the employee shall be granted unpaid special leave for so much of the period described in paragraph (2) for which the employee does not take annual or accrued leave.³⁹
- (3) If a politically eligible States' employee who is required to make contributions under any pension scheme established under the Public Employees (Retirement) (Jersey) Law 1967 or the Teachers' Superannuation (Jersey) Law 1979 is granted unpaid special leave under paragraph (2A) –
 - (a) notwithstanding any requirement of the pension scheme, neither the employee nor his or her employer shall make contributions

- under the pension scheme whilst the employee is on such leave;
and
- (b) the period for which the employee is on such leave shall be disregarded in determining the employee's period of pensionable service for the purposes of the pension scheme.⁴⁰
- (4) In this Article, the date of public nomination for office in relation to a States' employee is the date on which –
- (a) the employee is nominated for election as a Senator or Deputy at a nomination meeting held under the Public Elections (Jersey) Law 2002⁴¹; or
 - (b) public notice is given of his or her nomination for election as a Connétable.

37 Position of politically eligible States' employee after election⁴²

- (1) A politically eligible States' employee who is elected Senator, Deputy or Connétable, shall, unless he or she has earlier resigned, be taken to have resigned from employment as a States' employee the day before he or she is sworn in to the office of Senator, Deputy or Connétable.
- (2) A politically eligible States' employee who is not elected to be a Senator, Deputy, or Connétable, in an election for which he or she has been nominated as a candidate, shall, within 7 days from the date on which an announcement of the results of the election is made, either –
 - (a) resign from employment as a States' employee; or
 - (b) notify the Chief Officer of the department or unit of administration in which the employee is employed that he or she intends to return to work.
- (3) If a States' employee gives notice under paragraph (2)(b), he or she shall return to work on the date agreed with the Chief Officer of the department or unit of administration in which the employee is employed.
- (4) The date agreed with the Chief Officer under paragraph (3) shall be a date before 4 weeks after the date of the announcement of the results of the election for Senator, Deputy, or Connétable, for which the States' employee has been nominated as a candidate.
- (5) If a States employee does not comply with paragraph (2) or does not (without reasonable excuse) comply with paragraph (3), he or she shall be taken to have resigned from employment as a States' employee.
- (6) Despite any other provision of an enactment or the contract of employment of a States' employee –
 - (a) if the employee resigns from employment as a States' employee under paragraph (2), the resignation shall take effect immediately the notice is given under that paragraph; or
 - (b) if the employee is taken under paragraph (5) to have resigned from employment as a States' employee, the resignation shall take effect after 7 days after the date on which an announcement of the results of the election is made,

and he or she shall not be required to give a longer period of notice of the resignation.

- (7) A politically eligible States' employee who has given notice under paragraph (2)(b) shall be entitled to be reinstated to the position that he or she held before he or she notified the Chief Officer in accordance with Article 36 that he or she intended to stand for election.
- (8) Nothing in paragraph (7) limits the application of Article 34 to a person.

Politically ineligible States' employees

38 Politically ineligible States' employees not to take public part in political matters⁴³

- (1) A politically ineligible States' employee shall not take a public part in any political matter.
- (2) The States' Employment Board may discipline a politically ineligible States' employee who has contravened paragraph (1).
- (3) The States' Employment Board may terminate the employment of a politically ineligible States' employee if –
 - (a) he or she has contravened paragraph (1); and
 - (b) the Board determines that the contravention is such that the person ought not continue to be employed as a States' employee.

39 Political behaviour of politically ineligible States' employee may be considered in determining whether to re-employ him or her⁴⁴

- (1) Nothing in this Part, apart from paragraph (2), shall be taken to prevent a person who was, before he or she shall be taken to have resigned under Article 41, a politically ineligible States' employee, being re-employed as a States' employee.
- (2) The States Employment Board may refuse to re-employ as a States' employee a person who was a politically ineligible States' employee, if –
 - (a) the Board determines that the person contravened Article 38(1) while he or she was a politically ineligible States' employee and the contravention is such that the person ought not be re-employed as a States' employee; or
 - (b) the Board determines that –
 - (i) the person, during the relevant election period, engaged in behaviour that would have constituted gross misconduct for the purposes of Article 34, had the person been a politically eligible States' employee when the behaviour occurred, and
 - (ii) the behaviour is such that the person ought not be re-employed as a States' employee.
- (3) In this Article, "relevant election period", in relation to a person, means any period that –

- (a) begins on the day on which –
 - (i) he or she began to publicly campaign for election as a Senator, Deputy or Connétable,
 - (ii) he or she is nominated for public election as a Senator or Deputy at a nomination meeting held under the Public Elections (Jersey) Law 2002, or
 - (iii) public notice is given of his or her nomination for election as a Connétable; and
- (b) ends on the day after the day on which any election for which he or she had nominated is held.

40 Where politically ineligible States' employee intends to stand for election⁴⁵

- (1) A politically ineligible States' employee who intends to stand for election as a Senator, Deputy or Connétable shall, as soon as reasonably practicable, notify the Chief Officer of the department or unit of administration in which the employee is employed.
- (2) If a Chief Officer is given notice under paragraph (1) by a States' employee, the Chief Officer shall determine whether it is, in all the circumstances, appropriate for the States' employee to continue to carry out, until he or she shall be taken under Article 41 to have resigned, the functions that he or she was carrying out before the notice was given.
- (3) If a Chief Officer determines that it is not, in all the circumstances, appropriate for the States' employee to continue to carry out, until he or she shall be taken under Article 41 to have resigned, the functions that he or she was carrying out before the notice was given under paragraph (1), the Chief Officer may direct the States' employee to carry out, instead, other functions specified by the Chief Officer.

41 Politically ineligible States' employee shall resign before campaign begins or nomination⁴⁶

- (1) A politically ineligible States' employee shall be taken to have resigned from employment as a States' employee on the day before the day on which –
 - (a) he or she began to publicly campaign for election as a Senator, Deputy or Connétable;
 - (b) he or she is nominated for public election as a Senator or Deputy at a nomination meeting held under the Public Elections (Jersey) Law 2002; or
 - (c) public notice is given of his or her nomination for election as a Connétable,whichever of those days is earlier.
- (2) Despite any other provision of an enactment or the contract of employment of a States' employee, if the employee is to be taken under paragraph (1) to have resigned from employment as a States' employee –

- (a) the resignation shall take effect from the day on which he or she is taken to have resigned; and
- (b) he or she shall not be required to give a longer period of notice of the resignation.

PART 6⁴⁷

AMENDMENTS TO OTHER ENACTMENTS

42 Repeal etc. Regulations⁴⁸

The States may by Regulations –

- (a) amend this Law; and
- (b) make such repeal, amendment, transitional and savings provisions in relation to other enactments as are necessary or convenient upon the coming into effect of this Law.

PART 7⁴⁹

CONCLUDING PROVISION

43 Citation⁵⁰

This Law may be cited as the Employment of States of Jersey Employees (Jersey) Law 2005.

SCHEDULE 1⁵¹

(Articles 2(4) and 13)

OFFICES THE HOLDERS OF WHICH ARE NOT STATES' EMPLOYEES⁵²

Bailiff

Deputy Bailiff

Attorney General

Solicitor General

Viscount

Deputy Viscount

Judicial Greffier

Deputy Judicial Greffier

Greffier of the States

Deputy Greffier of the States

Master of the Royal Court

Magistrate

SCHEDULE 2⁵³

(Article 31)

CLASSES OF POLITICALLY ELIGIBLE STATES' EMPLOYEES

- (a) Airport Electricians;
- (b) Members of the Airport Rescue and Fire-fighting Service;
- (c) Educational, Technical and Support staff, who are of Grade 11 or below;
- (d) Members of the Emergency Ambulance Service;
- (e) Family Support Workers;
- (f) Industrial workers;
- (g) Members of the Fire and Rescue Service;
- (h) Lecturers at Highlands College;
- (i) Manual Workers;
- (j) Medical staff;
- (k) Nurses and Midwives;
- (l) Postal Workers;
- (m) Prison Officers;
- (n) Prison Managers;
- (o) Residential Child Care Workers;
- (p) States' employees (other than industrial or manual workers) who are of Grade 11 or below;
- (q) Teachers;
- (r) Youth Workers.

SCHEDULE 3⁵⁴

(Article 31)

CLASSES OF POLITICALLY INELIGIBLE STATES' EMPLOYEES

- (a) Chief Officers;
- (b) Area Managers of the Fire Service;
- (c) Head Teachers;
- (d) Prison Governor or Deputy Prison Governor;
- (e) States' employees (other than industrial or manual workers) who are of Grade 12 or above.

ENDNOTES**Table of Legislation History**

Legislation	Year and No	Commencement
Employment of States of Jersey Employees (Jersey) Law 2005	L.26/2005	28 October 2005, Articles 1, 39 and 40 9 December 2005, remainder (R&O.156/2005)
Employment of States of Jersey Employees (Consequential, Amendment, Repeal, Transitional and Savings Provisions) (Jersey) Regulations 2005	R&O.155/2005	9 December 2005
Employment of States of Jersey Employees (Amendment) (Jersey) Regulations 2007	R&O.118/2007	3 October 2007
Employment of States of Jersey Employees (Amendment No. 2) (Jersey) Regulations 2007	R&O.119/2007	3 October 2007
Employment of States of Jersey Employees (Amendment No. 3) (Jersey) Regulations 2008	R&O.45/2008	8 April 2008
Employment of States of Jersey Employees (Amendment No. 4) (Jersey) Regulations 2010	R&O.11/2010	9 February 2010
Employment of States of Jersey Employees (Amendment No. 5) (Jersey) Regulations 2010	R&O.44/2010	18 May 2010

Table of Renumbered Provisions

Original	Current
30-38	Spent, omitted
39	30
40(1)	31
40(2) and (3)	Spent, omitted
–	Part 5
–	30
–	31
–	32
–	33
–	34
–	35
–	36
–	37
–	38
–	39

Original	Current
–	40
–	41
Part 5	Part 6
30	42
Part 6	Part 7
31	43

Table of Endnote References

¹ Long title	<i>amended by R&O.118/2007</i>
² Article 1	<i>amended by R&O.155/2005, R&O.44/2010</i>
³ Article 2(4)	<i>amended by R&O.118/2007</i>
⁴ Article 5(1)	<i>amended by R&O.44/2010</i>
⁵ Article 6(1)	<i>amended by R&O.44/2010</i>
⁶	<i>chapter 16.300</i>
⁷ Article 13	<i>amended by R&O.118/2007</i>
⁸ Article 14	<i>amended by R&O.155/2005</i>
⁹ Article 15(2)	<i>inserted by R&O.155/2005</i>
¹⁰ Article 15(3)	<i>inserted by R&O.155/2005</i>
¹¹ Article 15(4)	<i>inserted by R&O.155/2005</i>
¹² Article 16(1)	<i>amended by R&O.155/2005</i>
¹³ Article 16(2)	<i>amended by R&O.155/2005</i>
¹⁴ Article 18(6)	<i>amended by R&O.155/2005</i>
¹⁵ Article 19(2)	<i>amended by R&O.155/2005</i>
¹⁶ Article 19(4)	<i>amended by R&O.155/2005</i>
¹⁷ Article 21(2)	<i>amended by R&O.44/2010</i>
¹⁸ Article 23	<i>amended by R&O.155/2005</i>
¹⁹ Article 24(1)	<i>amended by R&O.155/2005</i>
²⁰ Article 24(2)	<i>amended by R&O.155/2005</i>
²¹ Article 24(4)	<i>amended by R&O.155/2005</i>
²² Article 25(1)	<i>amended by R&O.155/2005</i>
²³ Article 25(3)	<i>amended by R&O.155/2005</i>
²⁴ Article 25(4)	<i>amended by R&O.155/2005</i>
²⁵ Article 26(2)	<i>amended by R&O.155/2005</i>
²⁶ Article 26(3)	<i>amended by R&O.155/2005</i>
²⁷ Article 26(4)	<i>amended by R&O.155/2005</i>
²⁸ Article 26(5)	<i>amended by R&O.155/2005</i>
²⁹ Article 27(1)	<i>amended by R&O.155/2005</i>
³⁰ Part 5	<i>inserted by R&O.118/2007</i>
³¹ Article 30	<i>inserted by R&O.118/2007</i>
³² Article 31	<i>inserted by R&O.118/2007</i>
³³ Article 32	<i>inserted by R&O.118/2007</i>
³⁴ Article 33	<i>inserted by R&O.118/2007</i>
³⁵ Article 34	<i>inserted by R&O.118/2007</i>
³⁶ Article 35	<i>inserted by R&O.118/2007</i>
³⁷ Article 36	<i>inserted by R&O.118/2007</i>
³⁸ Article 36(2)	<i>substituted by R&O.11/2010</i>
³⁹ Article 36(2A)	<i>inserted by R&O.11/2010</i>
⁴⁰ Article 36(3)	<i>substituted by R&O.11/2010; former Article substituted by R&O.45/2008</i>
⁴¹	<i>chapter 16.600</i>
⁴² Article 37	<i>inserted by R&O.118/2007</i>

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- ⁴³ *Article 38* inserted by R&O.118/2007
⁴⁴ *Article 39* inserted by R&O.118/2007
⁴⁵ *Article 40* inserted by R&O.118/2007
⁴⁶ *Article 41* inserted by R&O.118/2007
⁴⁷ *Part 6* renumbered by R&O.118/2007
⁴⁸ *Article 42* renumbered by R&O.118/2007
⁴⁹ *Part 7* renumbered by R&O.118/2007
⁵⁰ *Article 43* renumbered by R&O.118/2007
⁵¹ *Schedule 1* renumbered by R&O.118/2007
⁵² *Schedule 1* amended by R&O.119/2007
⁵³ *Schedule 2* inserted by R&O.118/2007
⁵⁴ *Schedule 3* inserted by R&O.118/2007