



Jersey

PROTECTION OF EMPLOYMENT OPPORTUNITIES (JERSEY) LAW 1988

Official Consolidated Version

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

05.625

Showing the law from 28 September 2021 to Current



Jersey

PROTECTION OF EMPLOYMENT OPPORTUNITIES (JERSEY) LAW 1988

Contents

Article

1	Interpretation	5
2	Application	6
3	Power to prohibit the taking of prescribed employment without consent ...	6
4	Application for consent.....	6
5	General.....	6
6	Offences	7
7	Investigation.....	8
8	Controller of Social Security to disclose information to Attorney General	8
9	Saving provisions.....	8
10	Regulations and Act designating Minister	8
11	Orders	9
12	Citation.....	9

SCHEDULE 10

PART 1	10
PART 2	10

ENDNOTES 11

Table of Legislation History	11
Table of Renumbered Provisions	11
Table of Endnote References	11



Jersey

PROTECTION OF EMPLOYMENT OPPORTUNITIES (JERSEY) LAW 1988¹

A LAW to protect opportunities for the taking of employment by persons having a connection with Jersey

Commencement [[see endnotes](#)]

1 Interpretation

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

“employment” means –

- (a) employment under a contract of service;
- (b) employment under an apprenticeship agreement;
- (c) self-employment,

in any trade, profession or industry;

“exempted person” means any person who, being a person to whom the proviso to Article 3(1) applies, has completed the formalities required by paragraph (2) of that Article;

“Minister” means the Minister of the States of Jersey who is designated by the States under Article 10;

“prescribed employment” means employment of any category prescribed under Article 3;

“school leaving age” means the upper limit of compulsory school age by virtue of Article 2 of the [Education \(Jersey\) Law 1999](#).²

- (2) For the purposes of this Law a person shall be deemed to take employment in Jersey where, although there is no change of employer, there is a change from employment which is carried out outside Jersey to employment which is carried out in Jersey.
- (3) For the purposes of this Law a person does not take employment where a change of employer results from –
 - (a) the sale of the business of the employer; or

- (b) the reconstruction or amalgamation of the company which is the employer.

2 Application

This Law applies to the taking of prescribed employment which is carried out in Jersey.

3 Power to prohibit the taking of prescribed employment without consent³

- (1) The States may, by Regulations, provide that no person shall take employment of any category prescribed in the Regulations without the consent of the Minister.
- (2) However Regulations under paragraph (1) shall not apply to any of the following –
 - (a) a member of the States;
 - (b) an ordinary judge appointed under the [Court of Appeal \(Jersey\) Law 1961](#);
 - (c) a jurat or a Commissioner appointed under the [Royal Court \(Jersey\) Law 1948](#);
 - (d) the Viscount;
 - (e) the Judicial Greffier;
 - (f) a person who has Entitled or Entitled for Work Only status in accordance with Regulations made under Article 2 of the [Control of Housing and Work \(Jersey\) Law 2012](#).
- (3) In paragraph (2)(a), “member of the States” has the same meaning as in the [States of Jersey Law 2005](#).

4 Application for consent

An application for consent to take prescribed employment shall –

- (a) be in the form required from time to time by the Minister;
- (b) contain or be accompanied by such particulars as the Minister may require; and
- (c) be accompanied by the fee (if any) prescribed by Order.

5 General

- (1) The Minister may grant consent to take prescribed employment either unconditionally or subject to such conditions as the Minister considers appropriate, or may refuse to grant consent to take prescribed employment.

- (2) In considering whether to grant consent to take prescribed employment, to impose conditions or to refuse consent, the Minister shall have particular regard to the matters set out in Part 1 or Part 2 of the Schedule, as the case may be.
- (3) Where the Minister refuses to grant consent to take prescribed employment he or she shall furnish to the applicant a statement in writing of his or her reasons.
- (4) The applicant, or the applicant's prospective employer, aggrieved by the decision of the Minister to refuse to grant consent to take prescribed employment or by any condition imposed by the Minister, may appeal to the Royal Court within 2 months of the date of the notification of the decision of the Minister in the matter, on the ground that the decision of the Minister was unreasonable having regard to all the circumstances of the case.
- (5) A consent to take prescribed employment shall –
 - (a) be in such form as the Minister may prescribe by Order made under Article 11; and
 - (b) contain particulars of the prescribed employment for which it is given and of any conditions imposed by the Minister.

6 Offences

- (1) Any person who, not being an exempted person, takes prescribed employment otherwise than in accordance with the consent of the Minister shall be guilty of an offence and shall be liable to a fine.
- (2) Any person who gives employment to a person, not being an exempted person, otherwise than in accordance with the consent of the Minister to take that employment or who does not deliver the form and particulars required by virtue of Article 3(2) shall be guilty of an offence and shall be liable to a fine.
- (3) A person commits an offence if for the purpose of procuring, whether for himself or herself or another person, the consent of the Minister to take prescribed employment, the person makes any statement which the person knows to be false.
- (4) A person commits an offence if, for the purpose of showing that he or she, or another person, is an exempted person, the person makes any statement or delivers any particulars which the person knows to be false.
- (5) A person commits an offence if the person dishonestly represents himself or herself to be an exempted person.
- (6) A person commits an offence if the person contravenes or fails to comply with any condition imposed on the person under Article 5.
- (7) Where any condition imposed under Article 5 is contravened or not complied with, the consent to take prescribed employment shall be of no effect.
- (8) A person who is guilty of an offence under paragraph (3), (4), (5) or (6) shall be liable to a fine.

7 Investigation

- (1) A person authorized in that behalf by the Minister may at all reasonable times on production if so required of evidence of the person's authority, enter on any land or premises and make such enquiries and require the production of such documents as the person thinks necessary in order to ensure that the provisions of this Law are being complied with.
- (2) A person who obstructs or impedes any person so authorized in the execution of the person's duties shall be guilty of an offence and shall be liable in respect of each offence to a fine.

8 Controller of Social Security to disclose information to Attorney General

- (1) Notwithstanding anything in the person's oath of office or in any other enactment the person for the time being appointed as Controller for the purpose of administering the [Social Security \(Jersey\) Law 1974](#), shall disclose such information as may be required in accordance with paragraph (2).
- (2) Where the Attorney General is satisfied that it is necessary for the purpose of ascertaining whether the provisions of this Law or any Regulations made under the Law are being or have been complied with the Attorney General may give notice in writing to the said Controller requiring the disclosure of information for that purpose from records kept by the said Controller.
- (3) Information disclosed in accordance with paragraph (2) may be given in evidence in any court.

9 Saving provisions

- (1) It is hereby declared that nothing in this Law shall affect the right of a person to continue in the employment in which the person is engaged on the commencement of a Regulation making that employment prescribed employment.
- (2) The requirements of this Law shall not apply to or affect a person who is subject to any condition or restriction relating to employment imposed upon the person under or by virtue of the Immigration Act 1971 of the United Kingdom⁴ as extended to Jersey.
- (3) Nothing in this Law shall affect the power of the States to transfer functions of Committees under Article 29 of the States of Jersey Law 1966.

10 Regulations and Act designating Minister

- (1) The States may by Regulations –
 - (a) for the purposes of Article 3 prescribe any category of employment which a person may not take without the consent of the Minister;

- (b) amend sub-paragraphs (a), (b), (d) and (e) of the proviso to Article 3(1);
 - (c) alter the matters set out in Part 1 or Part 2 of the Schedule.
- (2) The States shall before making any Regulations under this Law by Act designate one of its Ministers as the Minister having functions under this Law.
- (3) Once a person has acquired immunity from the application to the person of Regulations made under Article 3, the person's immunity shall not be affected by anything in Regulations made under this Article.

11 Orders

- (1) The Minister may make Orders generally for carrying this Law into effect and, in particular but without prejudice to the generality of the foregoing, shall make Orders –
 - (a) prescribing the form of application to be used under Article 4;
 - (b) prescribing the fees to be paid under Article 4; and
 - (c) prescribing the form of consent to be used under Article 5.
- (2) ⁵

12 Citation

This Law may be cited as the Protection of Employment Opportunities (Jersey) Law 1988.

SCHEDULE

(Article 5(2))

PART 1

The Minister in considering whether to grant or refuse an application for consent to take prescribed employment with an employer shall have particular regard to –

- (a) the availability of persons having a level of experience or training adequate for that employment who may take employment without the consent of the Minister;
- (b) the extent to which that employment is actually sought by such persons;
- (c) the comparability of the wages and conditions of service offered for that employment with the wages and conditions of service of the majority of persons engaged in like employment;
- (d) the probable duration of that employment;
- (e) the period of time for which the vacancy has existed and the period of time (if any) during which it has been advertised;
- (f) the nature and extent of any such advertising;
- (g) the character of the prospective employee;
- (h) the job experience of the prospective employee;
- (i) the provision (if any) made by the prospective employer for housing the employee.

PART 2

The Minister in considering whether to grant or refuse an application for consent to take prescribed employment in a self-employed capacity shall have particular regard to –

- (a) the matters referred to in paragraphs (a), (b), (d), (g) and (h) of Part 1; and
- (b) the economic situation of Jersey.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Protection of Employment Opportunities (Jersey) Law 1988	L.5/1988	8 April 1988
Education (Jersey) Law 1999	L.27/1999	1 March 2000
States of Jersey (Amendments and Construction Provisions No. 7) (Jersey) Regulations 2005	R&O.47/2005	9 December 2005
Civil Partnership (Jersey) Law 2012	L.4/2012	2 April 2012
Control of Housing and Work (Transitional and Consequential Provisions) (Jersey) Regulations 2013	R&O.30/2013	1 July 2013 (R&O.63/2013)
Legislation (Jersey) Law 2021	L.8/2021 (R&O.112/2021)	28 September 2021

Table of Renumbered Provisions

Original	Current
4(i)	4(a)
(ii)	(b)
(iii)	(c)
SCHEDULE PART I	SCHEDULE PART 1
(j)	(i)
SCHEDULE PART II	SCHEDULE PART 2

Table of Endnote References

¹	<i>This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 7) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government</i>
² Article 1(1)	<i>amended by L.27/1999</i>
³ Article 3	<i>substituted by R&O.30/2013</i>
⁴	<i>OinC.33/1972</i>
⁵ Article 11(2)	<i>deleted by L.8/2021</i>