

# STATES OF JERSEY



## DRAFT EMPLOYMENT TRIBUNAL (AMENDMENT) (JERSEY) REGULATIONS 200-

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Lodged au Greffe on 24th October 2006  
by the Minister for Social Security

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STATES GREFFE





Jersey

## **DRAFT EMPLOYMENT TRIBUNAL (AMENDMENT) (JERSEY) REGULATIONS 200-**

### **REPORT**

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In proposing this amendment, the Social Security Minister's main intention is to increase the rates of remuneration of Employment Tribunal Members; however the opportunity is also taken to achieve the following –

- To amend the manner in which the Deputy Chair's remuneration is paid proportionately to the Chairman's rate.
- To more accurately reflect the Appointments Commission's role in the appointment of Tribunal members,
- To increase the limit on the number of side members that may be appointed to the Tribunal.

#### **Increase Members' Remuneration**

When the Employment Tribunal Regulations were being prepared early in 2005, it was considered sensible to link the remuneration of people doing similar work and the rate paid to Commissioners of the Royal Court was deemed to be an appropriate comparator for the Employment Tribunal Chairman. The rate was therefore set at the Commissioners rate at that time – £686 per daily sitting, which had been effective since 1st April 2004.

Since that time, the Commissioners rate has increased twice (on 1st April, 2005 and 2006), and is due to increase again on 1st November 2006 via The Royal Court (Remuneration of Commissioners) (Jersey) Order 2006. There have, however, been no equivalent increases in the Employment Tribunal members' daily sitting rates.

The proposed new daily sitting rates for Employment Tribunal Members, to be effective from 1st November 2006, are –

- Chairman – to match the Commissioner's rate – £736;
- Deputy Chairman - 75% of the Chairman's rate – £552;
- Side Members - increase equivalent to that of the Chairman – £97.

The intention is to set at a rate that will attract and retain competent qualified people and to co-ordinate the timing and extent of tribunal increases with increases in the Commissioner's rate in future.

### **Deputy Chairman's rate**

Having received advice from the Chairman of the Tribunal, the Minister was conscious that the hearing of Tribunal cases has been divided differently between the Chairman and the Deputy Chairman than had been expected.

When the Tribunal was first established, it was anticipated that the Chairman would take the more complex cases, however this has not been the case; it has proved impossible to allocate cases in this way and it was not considered appropriate to do so. Although the Chairman has more experience and has the final decision in certain matters, there is no distinction in their roles as far as the type of case is concerned.

It is considered appropriate to reflect the increased responsibility and workload assumed by the Deputy Chairman by increasing daily rate of remuneration from 50% to 75% of the Chairman's daily rate.

The Deputy Chairman has taken on more complex responsibilities and workload since at least June 2006 and it is therefore considered appropriate that the remuneration reflects that and the Deputy Chairman is reimbursed as if the proposed increase to 75% of the Chairman's rate had been effective since 1st June 2006.

### **Role of Appointments Commission**

Article 3 of the Regulations, as currently drafted, provides that Tribunal members are appointed by the States on the recommendation of the Jersey Appointments Commission, and that before making a recommendation, the Appointments Commission will consult the Social Security Minister.

The Appointments Commission's remit is to ensure that appointments to the public service and public bodies are properly made. Its focus is on the propriety and fairness of recruitment processes and whilst it is often required to participate with employers in the definition and advertising of posts and the selection of candidates, it does not on its own recommend individuals.

The Chairman of the Appointments Commission has advised that the procedure set out in the Regulations should be reversed, so that the Minister makes recommendations about appointments, after consulting with the Appointments Commission. The Minister wishes to take the opportunity to make this amendment in order to more accurately reflect the process.

### **Pool of Tribunal members**

The Employment Tribunal Regulations, as currently drafted, place limits on the number of Tribunal Side Members that may be appointed; being not fewer than 2 and not more than 6 members each of employee and employer representatives (a total of 12 members). The Tribunal has, on occasion, experienced difficulties in forming a panel of three members to hear cases due to limits on members' availability (either because of other commitments or limits imposed by their employer) and conflicts of interest often occurring. This has raised some concern as to whether members can be adequately rotated for hearings and an overload of hearings for some members.

The Minister wishes to provide more flexibility by increasing the maximum number of members that may be appointed in each pool of side members from six to eight, in order to allow the Tribunal to appoint four new members, as necessary.

### **Financial and Manpower Statement**

The Minister is confident that existing budget levels for the Employment Tribunal can be managed and remain adequate to fund the proposed increases in remuneration.

As and when necessary to cover the case load of hearings, the Employment Tribunal will recommend up to four additional Side Members as office holders, following the required recruitment and selection procedure.

## Explanatory Note

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The main purpose of these Regulations is to increase the remuneration of members of the Jersey Employment Tribunal.

The remuneration of the Deputy Chairman is being increased from 50% to 75% of that of the Chairman. This is being done to take account of the work actually undertaken by the Deputy Chairman since June of this year and of the anticipated workload to be undertaken by the Deputy Chairman.

*Regulation 1* defines the principal Regulations that are being amended.

*Regulation 2* increases the maximum number of both employer and employee members the Tribunal may have on it from 6 to 8.

*Regulation 3* makes it clear that it is the Minister who makes a recommendation to the States in respect of a proposed person to be a member of the Tribunal after the Minister has consulted the Jersey Appointments Commission, and not the other way around.

*Regulation 4* increases the remuneration of the Deputy Chairman to 75% of that of the Chairman with effect from 1st June 2006.

*Regulation 5* increases the remuneration of the Chairman, Deputy Chairman and other members of the Tribunal with effect from 1st November 2006.

*Regulation 5* provides for the citation and commencement of the Regulations.



Jersey

## **DRAFT EMPLOYMENT TRIBUNAL (AMENDMENT) (JERSEY) REGULATIONS 200-**

### **Arrangement**

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#### **Regulation**

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Jersey

## **EMPLOYMENT TRIBUNAL (AMENDMENT) (JERSEY) REGULATIONS 200-**

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES**, in pursuance of Articles 82 and 104 of the Employment (Jersey) Law 2003<sup>1</sup>, have made the following Regulations –

### **1 Interpretation**

In these Regulations “the principal Regulations” means the Employment Tribunal (Jersey) Regulations 2005<sup>2</sup>.

### **2 Regulation 2 amended**

In Regulation 2 of the principal Regulations –

- (a) in paragraph (c) for “6” there is substituted “8”; and
- (b) in paragraph (d) for “6” there is substituted “8”.

### **3 Regulation 3 replaced**

For Regulation 3 of the principal regulations there is substituted the following Regulation –

#### **“4 Appointment of members**

The Chairman, Deputy Chairman and other members of the Tribunal shall each be appointed by the States on the recommendation of the Minister made after consulting the Jersey Appointments Commission established by Article 17 of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>3</sup>.”.

### **4 Regulation 6 amended**

In Regulation 6(1)(b) of the principal Regulations for “£343” there is substituted “£515”.

**5 Regulation 6 replaced**

For Regulation 6 of the principal Regulations there is substituted the following Regulation –

**“6 Remuneration of members**

- (1) A member of the Tribunal shall be paid remuneration at the following rate for each day or part of a day on which he or she sits –
  - (a) if the member is the Chairman, £736;
  - (b) if the member is the Deputy Chairman, £552;
  - (c) in the case of any other member, £97.
- (2) The members of the Tribunal shall also be reimbursed such reasonable expenses as the Minister may determine.”.

**6 Citation and commencement**

- (1) These Regulations may be cited as the Employment Tribunal (Amendment) (Jersey) Regulations 200-.
- (2) This Regulation and Regulations 1 and 4 shall be taken to have come into force on 1st June 2006.
- (3) The remaining Regulations shall come into force on 1st November 2007.

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- <sup>1</sup> *chapter 05.255*  
<sup>2</sup> *chapter 05.255.70*  
<sup>3</sup> *chapter 16.325*