



Jersey

**EMPLOYMENT AND DISCRIMINATION
TRIBUNAL (JERSEY)
REGULATIONS 2014**

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EMPLOYMENT AND DISCRIMINATION TRIBUNAL (JERSEY) REGULATIONS 2014

Arrangement

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EMPLOYMENT AND DISCRIMINATION TRIBUNAL (JERSEY) REGULATIONS 2014

THE STATES, in pursuance of Articles 82 and 104 of the Employment (Jersey) Law 2003¹, and Articles 15(3) and 16(1) of the Employment of States of Jersey Employees (Jersey) Law 2005², have made the following Regulations –

Commencement [[see endnotes](#)]

1 Interpretation

(1) In these Regulations, unless the context indicates otherwise –

“Chairman” means a member of the Tribunal described in Regulation 2(1)(a);

“Deputy Chairman” means a member of the Tribunal described in Regulation 2(1)(b);

“Discrimination Law” means the Discrimination (Jersey) Law 2013³;

“Jersey Appointments Commission” means the Commission established by Article 17 of the Employment of States of Jersey Employees (Jersey) Law 2005⁴;

“Lay Member” means a member of the Tribunal construed in accordance with Regulation 2(2);

“member” means the Chairman, a Deputy Chairman or a Lay Member of the Tribunal;

“Minister” means the Minister for Social Security;

“Tribunal” means the Jersey Employment and Discrimination Tribunal;

“2005 Tribunal Regulations” means the Employment Tribunal (Jersey) Regulations 2005⁵.

2 The Jersey Employment and Discrimination Tribunal

(1) The Tribunal shall consist of the following members –

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- (a) a Chairman, being a person who holds a qualification in law and who is appointed to hold the office of Chairman of the Tribunal in accordance with Regulation 3;
 - (b) at least one and not more than 5 Deputy Chairmen, being persons who hold a qualification in law and who are appointed to hold the office of Deputy Chairman of the Tribunal in accordance with Regulation 3;
 - (c) at least 2 and not more than 8 other members, being persons with knowledge or experience of or interest in trade unions or matters relating to employees generally;
 - (d) at least 2 and not more than 8 other members, being persons with knowledge or experience of or interest in employers' associations or matters relating to employers generally; and
 - (e) at least 2 and not more than 8 other members, being persons with knowledge or experience of or interest in matters relating generally to equality and discrimination, or to discrimination and protected characteristics within the meaning of the Discrimination Law.
- (2) The members described in paragraph (1)(c) to (e) are appointed to hold the office of Lay Member of the Tribunal in accordance with Regulation 3.
 - (3) A person shall serve as a member in respect of not more than one of the categories listed in paragraph (1).

3 Appointment of members

- (1) The members of the Tribunal shall be appointed to hold the offices specified in paragraph (2), in accordance with this Regulation.
- (2) For the purposes of Part 4 of the Employment of States of Jersey Employees (Jersey) Law 2005⁶ (the "2005 Law") –
 - (a) the office of Chairman of the Tribunal shall be a senior States' office prescribed under Article 16(1) of the 2005 Law;
 - (b) the offices of –
 - (i) Deputy Chairman of the Tribunal, and
 - (ii) Lay Member of the Tribunal,shall be offices prescribed under Article 15(3) of the 2005 Law; and
 - (c) the holders from time to time of the office of Chairman of the Tribunal, Deputy Chairman of the Tribunal or Lay Member of the Tribunal are prescribed to be States' appointees under Article 15(3) of the 2005 Law.
- (3) The recruitment of members with the qualification, knowledge or experience of, or interest in the matters specified in Regulation 2, shall be overseen by the Jersey Appointments Commission, and conducted in accordance with the guidelines produced by the Commission under Article 24 of the 2005 Law.

- (4) The members of the Tribunal shall be appointed by the States on the recommendation of the Minister after consultation with the Jersey Appointments Commission.

4 Oath of member

- (1) This Regulation applies to any member of the Tribunal appointed or re-appointed under Regulation 3 or 5.
- (2) Every member shall, before entering upon the discharge of his or her duties, take oath before the Royal Court that he or she will well and faithfully discharge the duties attached to the office of Chairman of the Tribunal, Deputy Chairman of the Tribunal or Lay Member of the Tribunal, as the case may be.

5 Term of office of members

- (1) A member's term of office shall be for such period, not exceeding 5 years, as the States specify when appointing the member.
- (2) The Minister may, upon the written request of a member and after consultation with the Jersey Appointments Commission, extend the member's initial term of office by re-appointing the member to the same office for a second term not exceeding 5 years.
- (3) Regulation 3 shall not apply in respect of such a re-appointment.
- (4) However, nothing in paragraph (2) or (3) shall prevent a re-appointment from being made in accordance with Regulation 3.
- (5) A member may continue in office after his or her term of office has expired, so long as the continuation is only for the purpose of completing any proceedings that the member began to hear before that expiry.

6 Termination of office

- (1) A member of the Tribunal shall cease to hold office on resigning, by giving notice in writing to the Minister.
- (2) The Chairman or a Deputy Chairman shall cease to hold office if he or she ceases to hold a qualification in law.
- (3) Any member of the Tribunal shall cease to hold office –
 - (a) on becoming bankrupt;
 - (b) on the appointment of a delegate, under Part 4 of the Capacity and Self-Determination (Jersey) Law 2016⁷, in relation to the member;
 - (c) on being received into guardianship under the Mental Health (Jersey) Law 2016⁸;
 - (d) if –
 - (i) in the case of a member that is the Chairman, without the consent of the Minister, or

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- (ii) in the case of any other member, without the consent of the Chairman,
the member has, for a continuous period of more than 6 months, been absent from any meetings of the Tribunal and unavailable to perform his or her functions in relation to the Tribunal when it was constituted in accordance with Regulation 9;
 - (e) if he or she fails or refuses to take oath of office under Regulation 4;
 - (f) on being removed from office by the Royal Court on either of the following grounds proved to the satisfaction of that Court –
 - (i) that he or she has neglected his or her duties in relation to the Tribunal, or
 - (ii) misconduct.⁹
 - (4) A member of the Tribunal shall not be removed from office for any other reason.
 - (5) This Regulation shall have effect despite anything in Regulation 5.

7 Remuneration of members

- (1) Subject to paragraph (3), 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) in the case of a member who is a Deputy Chairman, £552;
 - (c) in the case of a Lay Member, £97.
- (2) The members of the Tribunal shall also be reimbursed such reasonable expenses as the Minister may determine.
- (3) The Minister may, from time to time, by Order determine that different rates of remuneration shall apply from those specified in paragraph (1).

8 Hearings before single Tribunal member

- (1) In proceedings before the Tribunal relating to an individual employment dispute one member, being the Chairman or a Deputy Chairman, shall constitute the Tribunal.
- (2) However, if the Chairman thinks it is desirable to do so, he or she may direct that in proceedings relating to a particular individual employment dispute the Tribunal shall be constituted in accordance with Regulation 9.

9 Hearings before 3 Tribunal members

- (1) This Regulation applies –
 - (a) to proceedings before the Tribunal in respect of which the Chairman has given a direction under Regulation 8(2);

- (b) to proceedings before the Tribunal to which Regulation 8 does not apply;
 - (c) to proceedings before the Tribunal which concern both an individual employment dispute and an act of discrimination prohibited under the Discrimination Law;
 - (d) to proceedings before the Tribunal which relate to a complaint referred to it under the Discrimination Law.
- (2) Subject to paragraph (3), in any proceedings before the Tribunal –
- (a) to which paragraph (1)(a), (b) or (c) applies, the Tribunal shall be constituted with 3 members, namely –
 - (i) the Chairman or a Deputy Chairman, as the presiding member,
 - (ii) one member, being a member to whom Regulation 2(1)(c) refers, and
 - (iii) one member, being a member to whom Regulation 2(1)(d) refers;
 - (b) to which paragraph (1)(d) applies, the Tribunal shall be constituted with 3 members, namely –
 - (i) the Chairman or a Deputy Chairman, as the presiding member, and
 - (ii) 2 members, being members to whom Regulation 2(1)(e) refers.
- (3) The Chairman shall choose which members shall constitute the Tribunal under paragraph (2) and ensure in so far as is reasonably practicable –
- (a) that the members to whom Regulation 2(1)(b) refers are chosen having regard to the specialist legal expertise that may be required for the case, but are otherwise chosen in rotation; and
 - (b) that the members to whom Regulation 2(1)(c), (d) and (e) refers are also chosen in rotation.
- (4) In any proceedings to which this Regulation applies, the decision of the Tribunal shall be according to the opinion of the majority of its members.
- (5) Where the Tribunal has commenced hearing a matter and one of its members (other than the Chairman) –
- (a) becomes absent; or
 - (b) with the permission of the Chairman or a Deputy Chairman as the presiding member, withdraws because he or she is unable to continue to hear the matter,

provided the Chairman or a Deputy Chairman as the presiding member, the complainant and the respondent agree, the Chairman shall choose a substitute member from within the category of members listed in Regulation 2 from which the absent or withdrawn member was originally chosen.

- (6) Where there is no agreement under paragraph (5) or another member becomes absent or withdraws, the Chairman shall constitute a fresh Tribunal in accordance with paragraph (2).
- (7) For the purposes of paragraph (5), a member shall be taken to be unable to continue to hear the matter by reason of absence where that member's absence will cause undue delay to the determination of the matter.

10 Powers of Deputy Chairman if Chairman unable to act

If the Chairman is for any reason unable to exercise any power under Regulation 8(2), 9(3), (5), or (8), 11(1) or 12(3), the Judicial Greffier shall appoint a Deputy Chairman to exercise that power.

11 Annual report

- (1) The Chairman shall prepare an annual report on the activities of the Tribunal and submit it to the Minister within 4 months after the end of each financial year.
- (2) The Minister shall lay a copy of the annual report before the States at the first reasonable opportunity.

12 Repeal, saving and transitional provisions

- (1) The 2005 Tribunal Regulations are repealed.
- (2) Notwithstanding the repeal of the 2005 Tribunal Regulations –
 - (a) any Tribunal constituted under those Regulations shall continue to be so constituted for the purpose of completing any proceedings that that Tribunal began to hear before the commencement of these Regulations and the 2005 Tribunal Regulations shall continue to apply for the purpose of those proceedings;
 - (b) any recruitment of members which is in the process of being conducted under Regulation 3(1) of the 2005 Tribunal Regulations, and which has not been concluded before the commencement of these Regulations, shall be treated as recruitment having effect under Regulation 3(3) of these Regulations.
 - (c) any member appointed under Regulation 3(2) of the 2005 Tribunal Regulations –
 - (i) shall continue to hold office until his or her term of office has expired or is otherwise terminated under those Regulations,
 - (ii) is not required to take oath of office under Regulation 4 of these Regulations, but shall be so required if he or she is re-appointed under Regulation 3 or 5,
 - (iii) shall be remunerated in accordance with Regulation 7 of these Regulations.
- (3) The Chairman shall prepare a final annual report on the activities of the Tribunal constituted under the 2005 Tribunal Regulations, and that report

shall form part of the first annual report on the activities of the Tribunal constituted under these Regulations, prepared under Regulation 11.

13 Citation

These Regulations may be cited as the Employment and Discrimination Tribunal (Jersey) Regulations 2014.

ENDNOTES**Table of Legislation History**

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Employment and Discrimination Tribunal (Jersey) Regulations 2014	R&O.27/2014	1 September 2014	P.4/2014
Mental Health and Capacity (Consequential Amendment and Transitional Provision) (Jersey) Regulations 2018	R&O.49/2018	1 October 2018 (R&O.51/2018)	P.48/2018

◦Projets available at www.statesassembly.gov.je

Table of Renumbered Provisions

Original	Current
None	

Table of Endnote References

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- ¹ *chapter 05.255*
² *chapter 16.325*
³ *L.10/2013*
⁴ *chapter 16.325*
⁵ *chapter 05.255.70*
⁶ *chapter 16.325*
⁷ *chapter 20.040*
⁸ *chapter 20.650*
⁹ *Regulation 6(3) amended by R&O.49/2018*