

STATES OF JERSEY



DRAFT EMPLOYMENT (AMENDMENT No. 11) (JERSEY) LAW 201- (P.100/2019): THIRD AMENDMENT

**Lodged au Greffe on 8th October 2019
by the Deputy of St. Martin**

STATES GREFFE

1 PAGE 26, ARTICLE 3 –

- (1) Before the existing draft Article 15G to be inserted by Article 3, insert –

“15G Application of Part 3B

- (1) Articles 15H to 15O do not apply in respect of any employee of an employer where the employer is not a registered person for the purposes of the Goods and Services Tax (Jersey) Law 2007.
- (2) Paragraph (1) does not prevent the inclusion, in a contract between an employer and an employee in respect of whom that paragraph applies, of any term or condition conferring a right equivalent to any right conferred by an Article mentioned in that paragraph.
- (3) For the avoidance of doubt, in this Article “employee” includes any person employed by any other person, regardless of the number of hours worked or whether the employment is permanent or temporary or part-time or full-time.”.
- (2) Renumber existing draft Articles 15G to 15N as Articles 15H to 15O.

2 PAGE 31, ARTICLE 4 –

- (1) After Article 4(2) insert –

“(3) For the heading to Article 55A, there is substituted –

“Interpretation and application of Part 5A”.”.

- (2) Renumber existing Article 4(3) as (4), and after that paragraph insert –

“(5) After Article 55A(3), there is inserted –

- “(4) The provisions of this Part do not apply in respect of any employee of an employer where the employer is not a registered person for the purposes of the Goods and Services Tax (Jersey) Law 2007.
- (5) Paragraph (4) does not prevent the inclusion, in a contract between an employer and an employee in respect of whom paragraph (4) applies, of any term or condition conferring a right equivalent to any right conferred by a provision of this Part as it applies without the derogation made by paragraph (4).
- (7) For the avoidance of doubt and for the purposes of paragraphs (4) and (5), “employee” in those paragraphs includes any person employed by any other person, regardless of the number of hours worked or whether the employment is permanent or temporary or part-time or full-time.”.

- (3) Renumber existing paragraphs (4) to (11) of Article 4 accordingly.

DEPUTY OF ST. MARTIN

REPORT

Lodging amendments to necessary legislation is never easy and, as is often the case, a compromise can sometimes be a good alternative. I feel that in the case of this draft Law it is very necessary.

I am content that our legislation needs updating, and of course we've already quite recently made some changes to become more 'family-friendly', but I would wish to give Members a chance to offer some help and comfort to small businesses. These small businesses are themselves very often 'family businesses', and it might be these same small, family-run businesses that would be affected as an unintended consequence, ironically, of further family-friendly legislation. We already have a recognised way of identifying these smaller companies, and that is the GST register. It is these very small, non-GST registered companies, that I wish to exclude from the additional regulation that we have in this draft Law.

I won't need to remind Members that Jersey has very many small businesses and, as an Island, our economy has been driven by 'small-to-medium enterprises' ("SMEs") over the decades. We still have today a very large percentage of these smaller businesses in our local economy, indeed a much larger percentage than you might find elsewhere. It is something that makes us, as a business community, unique. It has also given Jersey the opportunity to be a place where entrepreneurship has thrived and (in modern parlance) where 'start-ups' are welcomed. I would remind Members that every big business was once a small business and, for all the right reasons, we must support them and their families.

Many of these non-GST registered businesses, that is those that turn over less than £300,000, are "one-man bands". Many more have just 2 or 3 employees. The implications of the draft Law are greater for these smaller companies, and will, in my view, be disproportionate. Many businesses in the hospitality sector, for example, employ couples ... with both working in the same workplace, often employed in similar roles. It is clear to me that the consequential effects of this draft Law could well be more than these very small businesses could cope with. Finding replacement staff to cover extended periods of parental leave will be almost impossible, and the pressure and stress on those few left fighting to keep their business afloat is a position I know the majority in this Assembly would not wish to burden them with.

There is much continued uncertainty in the economy at the moment, and the unknowns around Brexit are still very much in evidence. The pressures of the exchange rate, coupled with a lack of staff accommodation, are making it ever more difficult to attract and recruit staff. There can be little doubt that these challenges of finding replacement staff will not be diminishing any time soon. It would also seem to me that the timing of this draft Law is not great, and that more time is needed to see how Brexit events turn out, with the subsequent consequences for SMEs. Anyone who has been in business, or spoken to any businesses outside of this building, will understand the immense pressures at play right now. They will also know that we who make the rules have a responsibility to act in a way that shows an understanding of the bigger picture, and the consequences of the Laws we pass.

I should remind Members that this amendment does not mean that these smaller businesses cannot choose to offer the same conditions as bigger businesses and, if they can afford to do so and it helps them attract employees, then it should be welcomed ...

and I'm certain in some cases this will happen. However, to force those, by law, to have to offer terms and conditions they cannot afford is not the way to help small local family businesses.

I hope Members will agree that excluding those businesses that are not GST registered from the draft Law would be a sensible and moderate step, and one that would help them to work with the legislation that has already been implemented.

Financial and manpower implications

There are no significant financial or manpower implications for the States arising from the adoption of this amendment.

Re-issue Note

This publication is re-issued in order to include additional wording in the amendment and to clarify the wording of the report.