

# STATES OF JERSEY



## **DRAFT EMPLOYMENT (AMENDMENT No. 11) (JERSEY) LAW 201- (P.17/2019): SECOND AMENDMENT**

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**Lodged au Greffe on 10th April 2019  
by the Connétable of St. Mary**

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**STATES GREFFE**

**1 PAGE 17, 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 total number of that employer’s employees is 5 or less.
- (2) For the avoidance of doubt and for the purposes of paragraph (1), “employee” in that paragraph 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 23, 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 paragraph 55A(3), there is inserted –
- “(4) The provisions of this Part, other than this provision, do not apply in respect of any employee of an employer where the total number of that employer’s employees is 5 or less.
- (5) For the avoidance of doubt and for the purposes of paragraph (4), “employee” in that paragraph 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.

**3 PAGE 34, ARTICLE 7 –**

For the text of the Article headed “Citation and commencement”, substitute –

- “(1) This Law may be cited as the Employment (Amendment No. 11) (Jersey) Law 201-.
- (2) This Law comes into force, subject to paragraph (3), on 1st September 2019.

- (3) The provisions of Article 4(3) and (5) come into force on the day after registration of this Law, if registration occurs earlier than the date in paragraph (2).”.

CONNÉTABLE OF ST. MARY

## **REPORT**

The Minister's proposal is totally unfair to the tax-paying Public who will be paying the costs involved, either directly through increased service charges, or indirectly through taxation, in order for Social Security to fund the proposition.

It is not about equality; 2 people, of whatever gender, can essentially take time off from an employer and completely disrupt that business, whilst being subsidised by the employer and taxpayer, solely to have a child. Having children is a life choice, and this proposal is biased against those who choose not to have a family.

The current legislation causes difficulties for small businesses, which is why my amendment seeks to change not only the proposed legislation, but also the existing leave rights which came into force in 2018.

The effect of paragraph (3) restricts the existing rights from the day after the registration of the Law and also restricts the proposed new rights, as and when they come into force, to apply only to firms who have more than 5 employees.

The exemption clause would allow businesses employing 5 or less people to be able to 'opt out', providing this is clearly stated within the contract of employment of all those employees affected.

Many small businesses are specialists, employing highly-trained people who cannot be easily replaced on a temporary basis from within the Island's available workforce.

I have the support of 50 local businesses, who have encouraged me to bring forward this amendment. They do not consider that there has been sufficient consultation with those who will be most affected by these proposals. Many small businesses have struggled to meet the provisions of the existing legislation, which they regard as ill-conceived. This latest proposal to extend parental leave will place even more of a burden on them.

It would be completely impractical to apply the existing legislation to all employees regardless of the size of the business, and many small enterprises will not be able to afford to back-fill their 'missing' staff, nor be able to find appropriately trained and experienced temporary replacements.

This amendment offers a vital lifeline to those small businesses which employ 5 or less people on a permanent, part-time or zero-hours contract.

### **Financial and manpower implications**

There are no direct financial or manpower implications for the Island arising from this amendment, but it will enable small businesses to continue to trade.