

**WRITTEN QUESTION TO THE MINISTER FOR SOCIAL SECURITY  
BY DEPUTY S.Y. MÉZEC OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 14th JULY 2015**

**Question**

“Would the Minister explain what the logic is behind Section 8 of Schedule 2 of the Discrimination (Jersey) Law 2014 allowing for employers to discriminate on the basis of race if the employee is working in their home?

Does the Minister consider that it is inappropriate to allow people to discriminate on the basis of race in those circumstances and, if so, what action will she be taking to address this?”

**Answer**

The Deputy is referring to Paragraph 8 of Schedule 2 to the Discrimination (Jersey) Law 2013.

This exception **does not** allow a person to discriminate against an employee who works in their home. As the explanatory note to the Discrimination Law describes in relation to this exception (P.6/2013), where a person is employed in domestic work, it is prohibited for the employer to discriminate against the employee, including in relation to the terms or conditions of their employment, access to training or benefits, or in their selection for dismissal or redundancy.

This limited exception permits a person to discriminate on grounds of race only when **selecting** a person for domestic employment, work within a private residence, or to look after a child in the child’s home. This was based on the early UK discrimination legislation and was included because the Discrimination Law is not intended to intrude on the private and domestic arrangements made by individuals in their own households.

On the enactment of the Discrimination (Sex and Related Characteristics) (Jersey) Regulations on 1 September 2015, paragraph 8 will be replaced with the revised version that was adopted by the States in June 2015. The exception was amended following a request from the Health and Social Security Scrutiny Panel to ensure that ‘domestic duties’ would specifically include the provision of personal care for an adult.

The new paragraph 2F, Schedule 2, will ensure that a person may discriminate when selecting staff to undertake domestic work within their own home, including domestic work that involves child care or personal care for an adult. As with the current exception, this will be limited to recruitment decisions only, and discrimination will continue to be prohibited in relation to the treatment that employees receive once they are in post. For example, harassment of domestic staff on grounds of race will be unlawful in exactly the same way as for any other employee.

The Law is intentionally limited in the extent to which it restricts private life and the Minister appreciates that this exception is intended to ensure that a person can make a choice about who they engage to undertake domestic work in their own home. This is likely to be particularly important to people in relation to child care and personal care for an adult.

The Minister is aware, however, that the equivalent UK exception for domestic work was phased out over a period of time and has essentially been amalgamated into the general exception for occupational requirements. The Minister intends that, when she comes to consult on age discrimination later this year,

she will specifically consult on whether the separate exception for domestic work, child care and personal care for an adult in private homes should be retained.