



Jersey

**JERSEY ADVISORY AND
CONCILIATION (JERSEY) LAW 2003**

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Arrangement

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Jersey

JERSEY ADVISORY AND CONCILIATION (JERSEY) LAW 2003¹

A LAW to establish machinery for promoting the improvement of employment relations and to assist in the resolution of employment disputes, and for incidental and connected purposes

Commencement [[see endnotes](#)]

1 Interpretation

In this Law, unless the context otherwise requires –

“Board” means the Board of JACS constituted in accordance with the Schedule;

“collective employment dispute” means a collective employment dispute as defined in Article 5 of the Employment Relations (Jersey) Law 2007²;

“employment dispute” means any dispute between an employer and a worker or workers in the employment of that employer which is connected with the terms of employment or with the conditions of labour of any of those workers or with the rights or duties of an employer or an employee;

“financial year” means the financial year of JACS, being the period beginning with the day on which Article 2 comes into force and ending with 31st December in the following year, and each subsequent period of 12 months ending with 31st December in each year or such other date as the Minister may prescribe by Order;

“function” includes power, authority and duty;

“individual employment dispute” means an employment dispute that is not a collective employment dispute;

“JACS” means the Jersey Advisory and Conciliation Service established by Article 2;

“member” means member of the Board;

“Minister” means the Minister for Social Security.³

1A “Employer” and “employee”⁴

- (1) In this Law –
 - (a) “employer” means a person who employs another person; and
 - (b) “employee” means a person who is employed by an employer.
- (2) For the purposes of paragraph (1), a person is employed by another person if the first person works for the second person under a contract of service or apprenticeship with the second person.
- (3) For the purposes of paragraph (1), a person is also employed by another person if the first person enters into any other contract with the second person under which –
 - (a) the first person undertakes to do, or to perform personally, work or services for the second person; and
 - (b) the status of the second person is not that of a client or customer of any profession or trade or business undertaking that is carried on by the first person.
- (4) It is immaterial whether a contract to which paragraph (2) or paragraph (3) refers is express or implied.
- (5) If the contract is express, it is immaterial whether it is oral or in writing.

2 Establishment of Jersey Advisory and Conciliation Service

- (1) There is established a body called the Jersey Advisory and Conciliation Service.
- (2) The provisions of the Schedule shall have effect with respect to JACS.

3 General duty to promote improvement of employment relations and the resolution of employment disputes

It shall be the general duty of JACS –

- (a) to promote the improvement of employment relations;
- (b) to assist in the resolution of individual and collective employment disputes; and
- (c) to assist in the building of harmonious relationships between employers and employees, collectively and individually, and thereby improve the performance and effectiveness of organisations.

4 Conciliation

- (1) Where an individual or collective employment dispute exists or is apprehended JACS may, at the request of one or more parties to the dispute or otherwise, offer the parties to the dispute its assistance with a view to bringing about a settlement.

- (2) The assistance may be by way of conciliation or by other means, and may include the appointment of an employee of JACS or a person other than an employee of JACS to offer assistance to the parties to the dispute with a view to bringing about a settlement.
- (3) In exercising its functions under this Article JACS shall have regard to the desirability of encouraging the parties to a dispute –
 - (a) to use any appropriate agreed procedures for negotiation or the settlement of disputes; and
 - (b) to comply with a relevant code of practice approved under Article 25 of the Employment Relations (Jersey) Law 2007^{5,6}.

5 Conciliation officers

JACS shall designate some of its employees, and may designate persons who are not employees of JACS, to conciliate in individual or collective employment disputes in accordance with this Law and any other enactment (whenever passed) relating to matters which are or could be the subject of proceedings before an industrial tribunal constituted under Article 3 of the Industrial Disputes (Jersey) Law 1956.⁷

6 Arbitration

- (1) Where an individual or collective employment dispute exists or is apprehended JACS may, at the request of one or more of the parties to the dispute and with the consent of all the parties to the dispute, refer all or any of the matters to which the dispute relates for settlement through arbitration or mediation conducted by one or more persons appointed by JACS for that purpose (not being members or employees of JACS).
- (2) In exercising its functions under this Article JACS shall consider the likelihood of the dispute being settled by conciliation.
- (3) Where there exist agreed appropriate procedures for negotiation or the settlement of disputes between the parties to the employment dispute, JACS shall not refer a matter for settlement to arbitration or mediation under this Article unless –
 - (a) those procedures have been used and have failed to result in a settlement; or
 - (b) there is, in JACS' opinion, a special reason which justifies arbitration or mediation under this Article as an alternative to those procedures.
- (4) Where a matter is referred to arbitration –
 - (a) if more than one arbitrator or arbiter is appointed, JACS shall appoint one of them to act as chairman; and
 - (b) the award may be published if JACS so decides and all the parties consent.
- (5) The Arbitration (Jersey) Law 1998⁸ shall not apply to an arbitration under this Article.

7 Advice

- (1) JACS may issue such information and give such advice as it thinks appropriate on matters concerned with employment relations.
- (2) Information or advice given under paragraph (1) may be given on request or otherwise.
- (3) JACS may also publish general advice on matters concerned with employment relations or established employment policies.

8 Inquiry

- (1) JACS may inquire into any question relating to employment relations generally or to employment relations in any particular industry or in any particular undertaking or part of an undertaking.
- (2) The findings of an inquiry under this Article, together with any advice given by JACS in connection with those findings, may be published by JACS if –
 - (a) it appears to JACS that publication is desirable for the improvement of employment relations, either generally or in relation to the specific question inquired into; and
 - (b) after sending a draft of the findings to all parties appearing to be concerned and taking account of their views, it thinks fit.

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12 Orders

- (1) The Minister may by Order make provision for the purpose of carrying this Law into effect.
- (2) An Order made under this Law may –
 - (a) make different provision in relation to different cases or circumstances; and
 - (b) contain such transitional, consequential, incidental or supplementary provisions as appear to the Minister to be necessary or expedient for the purposes of the Order.
- (3) The Subordinate Legislation (Jersey) Law 1960¹² shall apply to Orders made under this Law.

13 Citation

This Law may be cited as the Jersey Advisory and Conciliation (Jersey) Law 2003.

SCHEDULE

(Article 2)

CONSTITUTION AND ADMINISTRATION OF JERSEY ADVISORY AND CONCILIATION SERVICE AND ITS BOARD**1 Constitution of JACS**

- (1) JACS shall –
 - (a) be a body corporate, of which the corporators are the members of its Board, with perpetual succession and a common seal; and
 - (b) be directed by a Board constituted in accordance with paragraphs 3 to 5.
- (2) JACS may –
 - (a) sue and be sued in its corporate name;
 - (b) enter into contracts and acquire, hold and dispose of any property; and
 - (c) so far as is possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.

2 Administration of JACS

- (1) The functions of JACS, and those of its employees, shall be performed on behalf of the States, but not so as to make it subject to directions of any kind from any Minister or Member of the States as to the manner in which it is to exercise its functions under any enactment.
- (2) Nothing in any enactment shall prevent or penalise the disclosure to JACS, for the purposes of the exercise of any of its functions, of information lawfully obtained by a Minister, administration or department of the States.
- (3) JACS shall maintain such offices in Jersey as it thinks fit for the purposes of discharging its functions under any enactment.

3 The Board of JACS

- (1) Subject to the following provisions, the Board shall consist of not more than 7 members who shall not be members of the States.
- (2) On the commencement of this Law the Board shall be constituted of members appointed by the Minister on the recommendation of the Employment Forum, but thereafter members shall be selected and appointed by the Board subject to the approval of the Minister, who shall immediately inform the States of any such appointment.

- (3) Before making an appointment under sub-paragraph (2) the Board shall consult such organisations representing employers and workers as the Board considers appropriate, and shall only appoint such persons as appear to them to have skills, experience and ability in employment relations and employment matters.
- (4) The Board shall determine its own procedure, including the quorum necessary for its meetings.
- (5) The Board shall each year choose a member to act as chairman, and another to act as deputy chairman.
- (6) The validity of proceedings of the Board shall not be affected by any vacancy among the members of the Board or by any defect in the appointment of any of them.
- (7) The fixing of the common seal of JACS shall be authenticated by the signature of a person authorized by the Board to sign on behalf of JACS.
- (8) A document purporting to be duly executed under the seal of JACS shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

4 Terms of appointment of members of Board

- (1) The members of the Board shall hold and vacate office in accordance with their terms of appointment, subject to paragraphs (2) and (3).
- (2) A person shall not be appointed to the Board for a term exceeding 4 years, but previous membership shall not affect eligibility for re-appointment.
- (3) A member may at any time resign his or her membership, and the chairman or a deputy chairman may at any time resign his or her office as such, by notice in writing in accordance with the terms of his or her appointment.
- (4) If a member –
 - (a) has been absent from meetings of the Board for a period longer than 6 consecutive months without the permission of the Board;
 - (b) has neglected the duties of a member;
 - (c) has become bankrupt or made an arrangement with the member's creditors;
 - (d) reaches the age of 70;
 - (e) becomes a member of the States;
 - (f) is incapacitated by physical or mental illness; or
 - (g) is otherwise unable or unfit to discharge the functions of a member,the Board may declare the member's office as a member to be vacant and shall notify the declaration to the members in such manner as the Board thinks fit, whereupon the office shall become vacant.

5 Expenses of members of Board

JACS shall reimburse to the members of its Board such travelling and other expenses actually incurred as may be determined by the Board.

6 Staff of JACS

- (1) JACS may appoint or contract for the provision of such staff as it may determine.
- (2) Appointments made under sub-paragraph (1) shall be made on such terms as to remuneration and other conditions of service as the Board shall determine.
- (3) JACS shall make such arrangements as it considers necessary for the payment of pensions and associated benefits to its employees and their dependants.

7 Delegation

- (1) The Board may delegate any of the functions of JACS under this or any other enactment wholly or partly to –
 - (a) the Chairman of the Board;
 - (b) another member;
 - (c) an employee of JACS; or
 - (d) a committee whose member or members are drawn only from the members of the Board and employees of JACS.
- (2) Nothing in this paragraph shall authorize the Board to delegate –
 - (a) the power of delegation conferred by this paragraph; or
 - (b) the function of reviewing any of its decisions.
- (3) The delegation of any functions under this paragraph –
 - (a) shall not prevent the performance of those functions by the Board or JACS itself; and
 - (b) may be amended or revoked by the Board.

8 ¹³**9 Public Finances (Administration) (Jersey) Law 1967**

For the purposes of Article 8 of the Public Finances (Administration) (Jersey) Law 1967,¹⁴ none of the monies received by JACS shall be received on behalf of the States and JACS shall not be an establishment under the supervision or administration of the States.

10 Annual report and accounts

- (1) JACS shall –

- (a) keep proper accounts and proper records in relation to the accounts; and
 - (b) prepare accounts in respect of each financial year and provide these to the Minister as soon as practicable after the end of the financial year to which they relate, but in no case later than 4 months after the end of that year.
- (2) The Minister shall lay a copy of the accounts so provided before the States as soon as practicable after the Minister receives the report.
- (3) The accounts of JACS shall –
 - (a) be audited by auditors appointed in respect of each financial year by the Minister; and
 - (b) be prepared in accordance with generally accepted accounting principles and show a true and fair view of the profit or loss of JACS for the period to which they relate and of the state of JACS' affairs at the end of the period.
- (4) Articles 113 to 113E of the Companies (Jersey) Law 1991¹⁵ shall apply to an auditor and the auditor's appointment as if JACS were a company within the meaning of those Articles and the appointment were under Article 109 of that Law.
- (5) JACS shall prepare a report on its activities in each of its financial years.
- (6) JACS shall provide the Minister with the report referred to in subparagraph (5) as soon as practicable after the end of the financial year to which the report relates, but in no case later than 4 months after the end of that year.
- (7) The Minister shall lay a copy of the report so provided before the States as soon as practicable after he or she receives the report.

11 Fees and Charges

JACS may charge, retain and apply in the performance of its functions –

- (a) fees and charges of such amounts, paid by such persons, and paid in such a manner, as may be specified by the Minister by Order after consultation with the Board, by or under this or any other enactment;
- (b) such fees and charges (not consistent with this or any other enactment) of such amounts, paid by such persons, and paid in such a manner, as may be decided by JACS in respect of any service, item, or matter, that does not arise under this or any other enactment; and
- (c) such fees and charges (not consistent with this or any other enactment) as may be agreed between JACS and any person for whom JACS provides advice, assistance or other services under this or any other enactment, in respect of the advice, assistance or other services.

12 Consent to Borrowing

- (1) JACS shall not borrow money without the consent of the Minister.

- (2) The Minister for Treasury and Resources may, on such terms as he or she may determine, on behalf of the States –
 - (a) guarantee the liabilities of JACS; and
 - (b) lend money to JACS.
- (3) The Minister for Treasury and Resources may act under paragraph (2) only on the recommendation of the Minister.

13 Guidelines on investment

JACS shall, in investing any of its funds, comply with any guidelines specified by the Minister.

14 Exemption from Income Tax

The income of JACS shall not be liable to income tax under the Income Tax (Jersey) Law 1961.¹⁶

15 Limitation of liability

- (1) A person or body to whom this paragraph applies shall not be liable in damages for anything done or omitted in the performance or purported performance of any functions of JACS conferred by or under this Law or any other enactment, or any other functions conferred by or under this Law, unless it is shown that the act or omission was in bad faith.
- (2) This paragraph applies to –
 - (a) the States;
 - (b) the Minister or the Minister for Treasury and Resources or any person who is, or is acting as, an officer, employee or agent of an administration of the States for which either of those Ministers is assigned responsibility or performing any function on behalf of either of those Ministers; and
 - (c) JACS, any member of the Board, or any person who is, or is acting as, an officer, employee or agent of JACS or the Board or performing any function on behalf of JACS or the Board.

ENDNOTES**Table of Legislation History**

Legislation	Year and No	Commencement
Jersey Advisory and Conciliation (Jersey) Law 2003	L.11/2003	28 March 2003
States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005	R&O.48/2005	9 December 2005
Public Finances (Consequential Amendments) (Jersey) Regulations 2005	R&O.126/2005	9 December 2005
Employment Relations (Jersey) Law 2007	L.3/2007	21 January 2008 (R&O.135/2007)

Table of Renumbered Provisions

Original	Current
1(1)	1
1(2), (3), (4)	spent, omitted from this revised edition

Table of Endnote References

¹	<i>This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government</i>
²	<i>chapter 05.260</i>
³ Article 1	<i>amended by L.3/2007</i>
⁴ Article 1A	<i>inserted by L.3/2007</i>
⁵	<i>chapter 05.260</i>
⁶ Article 4(3)	<i>amended by L.3/2007</i>
⁷	<i>chapter 05.375</i>
⁸	<i>chapter 04.080</i>
⁹ Article 9	<i>repealed by L.3/2007</i>
¹⁰ Article 10	<i>repealed by L.3/2007</i>
¹¹ Article 11	<i>repealed by L.3/2007</i>
¹²	<i>chapter 15.720</i>
¹³ Schedule	<i>paragraph 8 repealed by R&O.126/2005</i>
¹⁴	<i>chapter 24.900</i>
¹⁵	<i>chapter 13.125</i>
¹⁶	<i>chapter 24.750</i>