• JERSEY'S DEVELOPING EMPLOYMENT LEGISLATION: AMENDMENTS 6 AND 7

The evolution of employment law in Jersey does not look to be slowing down in 2012, with the registration in the Royal Court of two further amendments (Amendment 6 & 7) to the Island's principal employment legislation, the Employment (Jersey) Law 2003 (the "Law"), on 6th January 2012, and amendments to the Island's minimum wage soon to be in effect.

EMPLOYMENT (AMENDMENT NO. 6) (JERSEY) LAW 2012

Previously, a statutory redundancy payment was not available to those who worked less than 8 hours a week. Article 60B of the Law has been amended to remove this restriction (save that the employee must still have 2 years' continuous service). It is understood that the intention was to avoid issues of indirect sex discrimination that might arise if employees who are contracted to work for less than 8 hours per week are excluded from protection. The amendment also provides for a new methodology to calculate an employee's period of employment (primarily that the amount of hours worked is now not a relevant consideration in relation to redundancy payments).

Until now, the Law erroneously provided that an employee who is made a reasonable offer of the same or similar, suitable employment to start within 4 weeks of termination (due to redundancy) is free to refuse and take a redundancy payment. The relevant article has been amended so that an employee who is made a reasonable offer of the same, or similar, suitable employment to start within 4 weeks is not entitled to a redundancy payment, in accordance with the Minister's original intention.

Further amendments in relation to collective consultation requirements (where an employer proposes to make a number of employees redundancy) and protective awards have been implemented.

EMPLOYMENT (AMENDMENT NO. 7) (JERSEY) LAW 2012

Although Article 60B of the Law was amended in Amendment 6, further amendment was deemed necessary to be incorporated in Amendment 7 (which substitutes Article 60B in its entirety rather than bringing into force Article 60B as substituted by Amendment 6). Aside from the removal of the 8 hour restriction discussed above, the substituted Article 60B also makes a change in relation to fixed term contracts.

Under Article 57 of the principal Law a person working under a fixed term contract is treated as being continuously employed if he or she works under another fixed term contract and the interval between the two contracts is not more than 26 weeks. Under the substituted Article 60B that interval is reduced to not more than 9 weeks.

Of particular note is the insertion of a new provision which means that if an employee has a received a redundancy payment and then the employee enters into a new contract of employment, the continuity of employment is deemed to have been broken.

The Law was amended last year to allow a person who is served with a notice of redundancy to take time off to seek alternative employment. This right has now been limited to instances where an employee who is employed under a fixed term contract of one year or less unless such employee was previously employed under another fixed term contract of one year or less by the same employer and the interval between the two contracts of employment was not more than 9 weeks.

Further amendments in relation to the calculation of a week's pay and collective consultation requirements have been implemented.

MINIMUM WAGE REVIEW

With effect from 1 April 2012, the Minimum wage rates and the offsets in Jersey will increase to:

Minimum wage: £6.48 (currently £6.32

Maximum offset accommodation: £70.94 (currently £69.21)

Maximum offset accommodation & food: £94.58 (currently £92.27)

Trainee rate: £4.86 (currently £4.74)

Maximum offset accommodation: £53.21 (currently £69.21)

Maximum offset accommodation & food: £70.94 (currently £92.27)

Please note that the offsets that can be applied to the trainee rate have been reduced to 75% of that agreed for the full minimum wage.

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