

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**26<sup>th</sup> April, 2023**

**Proposition No. P.2023/19**

**Committee for Employment & Social Security**

**The Employment and Equal Opportunities Service (Guernsey) Law, 2023**

**AMENDMENT**

Proposed by: Deputy J F Dyke

Seconded by: Deputy P T R Ferbrache

At the end of the Proposition add: “, subject to the following amendments:-

1. Replace clause 11 with the following provision:-

**“ Ancillary powers of Director.**

**11. (1)** Subject to subsection (2), the Director may do anything that appears to the Director to be necessary for, or expedient to, the exercise of the Director’s functions including, without limitation, power –

- (a) to require the production of or otherwise obtain such documents, accounts and information from such persons and within such periods and at such times and intervals as the Director thinks fit,
- (b) to require any person to provide an explanation of any document, accounts or information,
- (c) to require any person to provide any additional information known to that person which might reasonably be needed,
- (d) subject to any provision to the contrary in this Law or any other enactment, to publish information, guidance, reports and other documents,
- (e) to appoint any person or body to provide advice in relation to the exercise of any of the Director’s functions, and
- (f) to request advice from His Majesty’s Procureur in relation to the exercise of any of the Director’s functions.

(2) The power under subsection (1) to require anything referred to in paragraphs (a), (b) or (c) of that subsection –

- (a) may be exercised only where the Director reasonably believes that a person is committing or has committed an act which is prohibited by or under any of the employment and equal opportunities enactments, and
- (b) may not be exercised so as to require a person to produce any document, accounts or information which he or she could not be compelled to produce in civil proceedings before the Royal Court.

(3) For the purposes of exercising the Director's functions the Director may enter into any contract.”.

2. Replace paragraph 1(1)(g) of the Schedule with the following provision:-

“(g) in section 58(1) –

- (i) in both places it occurs, for “Committee” substitute “Director”, and
- (ii) immediately before “believes”, insert “reasonably”, “.”.

#### **Rule 4(1) Information**

- a) The amendment contributes to States’ objectives and policy plans by clarifying and restricting the powers of the Director established under the Employment and Equal Opportunities Service (Guernsey) Law, 2023.
- b) The Law Officers and other lawyers and the two lawyer members of the Legislation Review Panel have been consulted.
- c) HM Procureur has been consulted.
- d) There are no financial implications.

#### **Explanatory Note**

The purpose of the first amendment is to circumscribe the powers of the Director of the Employment and Equal Opportunities Service to demand documents etc to specified circumstances – i.e. only where the Director reasonably believes that a person is committing or has committed a breach of the “employment and equal opportunities enactments” (which is a defined term under the Law) and only in relation to documents etc. that a person can be compelled to produce in civil proceedings before the Royal Court. Such powers cannot be open ended.

The second amendment would modify the Director's powers to obtain information under the Sex Discrimination (Employment) (Guernsey) Ordinance 2005 to those circumstances where the Director reasonably believes that a person may be committing or about to commit a prohibited act of discrimination or other contravention of the Ordinance.