

GUERNSEY STATUTORY INSTRUMENT

2006 NO. 10

**The Employment Protection (Recoverable Costs)  
Order, 2006**

*Made* , 2006  
*Laid before the States* , 2006  
*Coming into force* 1<sup>st</sup> March, 2006

**THE COMMERCE AND EMPLOYMENT DEPARTMENT**, in exercise of the powers conferred on it by paragraph 6 of the Schedule to the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005<sup>a</sup> ("**the Ordinance**") and all other powers enabling it in that behalf, hereby makes the following order:-

**Maximum costs which may be awarded by Tribunal.**

1. Where the Employment and Discrimination Tribunal ("**the Tribunal**") orders that the whole or any part of the costs of a hearing of a complaint under section 16(1)(a), (b) or (c) of the Employment Protection (Guernsey) Law, 1998, as amended<sup>b</sup> ("**the Law**") shall be paid by one or more of the parties, the maximum amount of costs which may be recovered by the person in whose favour the order

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<sup>a</sup> Ordinance No. XXX of 2005.

<sup>b</sup> Order in Council No. IX of 1998; amended by No. XVIII of 2001; No. VIII of 2002; the Employment Protection (Guernsey) (Amendment) Law, 2005; and the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 (No. XXXI of 2005). Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003)..

was made shall be determined in accordance with the following provisions of this Order.

**Witness costs.**

2. (1) The maximum costs which may be recovered by a party in respect of the costs, fees and expenses of a witness -

- (a) in the case of a witness necessarily absent from his place of residence overnight in order to attend as a witness, shall be a night allowance not exceeding the expenses actually and reasonably incurred for board and lodging for that night,
- (b) in the case of a witness necessarily incurring expenses in travelling to and from the place of the hearing for the purpose of attending to give evidence, shall be an allowance not exceeding the expenses actually and reasonably incurred,
- (c) for loss of earnings, shall be as necessarily incurred but not exceeding £100 per day,
- (d) where the witness is an expert witness, shall be -
  - (i) £60 per hour, for attending to give expert evidence, and
  - (ii) £600, for work in connection with the preparation of such evidence.

(2) For the purposes of this article a party giving evidence shall not be deemed to be a witness.

**Summons costs.**

3. The costs which may be recovered by the Department in respect of the issue of each witness summons shall be £20.

**Parties' costs.**

4. The maximum costs which may be recovered by a party shall be -
- (a) in respect of his costs, fees and expenses reasonably incurred in the preparation or presentation of his case, £100,
  - (b) where he is necessarily absent from his place of residence overnight in order to attend the hearing, a night allowance not exceeding the expenses actually and reasonably incurred for board and lodging for that night,
  - (c) where he necessarily incurs expenses in travelling to and from the place of the hearing for the purpose of attending the hearing, an allowance not exceeding the expenses actually and reasonably incurred.

**Administrative costs.**

5. The maximum costs which may be recovered by the Department in respect of the costs, fees and expenses of the holding or conduct of the hearing (other than the costs, fees, expenses and allowances of the Tribunal and the members thereof) shall be £100 per day.

**Tribunal's costs.**

6. The maximum costs which may be recovered by the Department in respect of the costs, fees, expenses and allowances of the Tribunal and the members thereof shall be £100 per day.

**No costs for legal representation.**

7. No costs may be recovered by a party in respect of the costs, fees and expenses of his Advocate or other legal adviser.

**Order for costs to specify amount.**

8. Where the Tribunal orders that the whole or any part of the costs of a hearing shall be paid by one or more of the parties, its order shall specify -

- (a) the amount to be paid under the order, and
- (b) the basis on which the amount is calculated.

**Interpretation.**

9. (1) In this Order -

**"Department"** means the Commerce and Employment Department,

**"Law"** means the Employment Protection (Guernsey) Law, 1998, as amended<sup>c</sup>,

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<sup>c</sup> Order in Council No. IX of 1998; amended by No. XVIII of 2001; No. VIII of 2002; the Employment Protection (Guernsey) (Amendment) Law, 2005; and the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 (No. XXXI of 2005). Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003)..

"**Ordinance**" means the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005<sup>d</sup>,

"**Tribunal**" means the Employment and Discrimination Tribunal established under the Ordinance,

and other expressions, except where the context excludes, have the same meanings as in the Law or, as the case may require, the Ordinance.

(2) The Interpretation (Guernsey) Law, 1948<sup>e</sup> applies to the interpretation of this Order as at applies to the interpretation of an enactment.

(3) Any reference in this Order to a day or half day includes a reference to any part of a day or half day.

**Repeal.**

10. The Employment Protection (Recoverable Costs) Order, 1999<sup>f</sup> is repealed.

**Transitional provisions.**

11. Notwithstanding the provisions of article 10, the Employment Protection (Recoverable Costs) Order, 1999 shall apply in relation to a complaint against an employer under section 17(1)(a), (b) or (c) of the Law (as the Law had effect immediately before the date of commencement of the Employment Protection

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<sup>d</sup> Ordinance No. XXX of 2005.

<sup>e</sup> Ordres en Conseil Vol. XIII, p. 355.

<sup>f</sup> G.S.I. No. 8 of 1999.

(Guernsey) (Amendment) Law, 2005<sup>g</sup>) which was presented to the Department before that date in all respects as that Order had effect immediately before that date.

**Commencement.**

**12.** This Order shall come into force on the 1<sup>st</sup> March, 2006.

**Citation.**

**13.** This Order may be cited as the Employment Protection (Recoverable Costs) Order, 2006.

Dated this 9 day of February, 2006

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S. FALLA

Minister of the States Commerce and Employment Department

For and on behalf of the Department

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<sup>g</sup> The Employment Protection (Guernsey) (Amendment) Law, 2005 came into force on the 1<sup>st</sup> March 2006.

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**EXPLANATORY NOTE**

The purpose of this order is to prescribe the maximum amounts of witness costs and other costs which may be awarded by the Employment and Discrimination Tribunal in favour of any party to proceedings before it under the Employment Protection (Guernsey) Law, 1998.