

STATES OF JERSEY



DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (COMPENSATORY ADDED YEARS) (AMENDMENTS) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 1st April 2019
by the States Employment Board**

STATES GREFFE



Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (COMPENSATORY ADDED YEARS) (AMENDMENTS) (JERSEY) REGULATIONS 201-

REPORT

1. Background

The States Employment Board, at its meeting on 25th March 2019, agreed to lodge the Draft Public Employees (Pension Scheme) (Transitional Provisions, Savings and Consequential Amendments) (Amendment) (Jersey) Regulations 201-; along with the Draft Public Employees (Contributory Retirement Scheme) (Compensatory Added Years) (Amendments) (Jersey) Regulations 201- (“the draft Regulations”). The draft Regulations allow the administrator to give a member additional pensionable service, in the Final Salary Scheme of the Public Employees Pension Fund (“PEPF”), where they have suffered a reduction in their salary as a result of workforce or other organisational restructure, or a re-evaluation of their role by their employer.

The Final Salary Scheme calculates retirement benefits based on the length of a member’s pensionable service and their final salary upon leaving or retiring from the scheme. The final salary calculation is generally based on the highest salary over 365 consecutive days in the 3 years prior to leaving or retiring.

If a member was to have their salary reduced prior to leaving or retiring, this could have a detrimental effect on the value of their final salary pension. Furthermore, the value of the pension would not match the level of pension contributions previously paid into the Scheme before the reduction.

To counteract the reduction to a member’s salary, the draft Regulations allow the administrator to give the member additional pensionable service. The additional service would be calculated by the independent Scheme Actuary to ensure cost neutrality for the Scheme. This would mean that there would be no additional cost to the employer or the Pension Fund for applying the added years.

The draft Regulations also provide that, where a member has received additional pensionable service in the above circumstance, any salary received prior to the additional service being applied will not be taken into account when calculating a member’s pension.

The draft Regulations have been developed in consultation with the Scheme Actuary and the Committee of Management, who are the governing body of the PEPF; and are determined to be the best approach to ensure a member’s final salary pension is not adversely affected by a reduction to their salary which has been initiated by their employer.

2. Draft amending Regulations

Detailed below are the draft amending Regulations which are to amend the 4 sets of Regulations that provide benefits solely under the Final Salary Scheme of the PEPF. These Regulations are relevant only to members who opted to remain in the Final Salary Scheme of the PEPF from 1st January 2019.

To be amended by the Public Employees (Contributory Retirement Scheme) (Compensatory Added Years) (Amendments) (Jersey) Regulations 201-

- Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967
- Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989
- Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992
- Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989.

PART 1 – Amendments to the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967

Regulation 1 – Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 amended

Advises which of the PEPF Regulations are to be amended by the following draft amending Regulations.

Regulation 2 – Interpretation (amended)

Introduces the terms “employer-initiated salary reduction” and “salary reduction date”. These terms will help facilitate the application of additional service following an employer-initiated salary reduction.

Regulation 3 – Regulation 7 (retirement pension) amended

Determines how a retirement pension should be calculated following an employer-initiated salary reduction. This Regulation ensures that the final salary calculation is to be only based on salary following the application of the additional service.

The draft amendment also removes the maximum pension cap. The removal of the cap avoids a situation where a member may not be awarded added years if they had already reached the cap. This amendment would also align the public service pension legislation with the Income Tax (Jersey) Law 1961.

Regulation 4 – Regulation 15 (reduction of salary) amended

Disapplies Regulation 15 where a member has had an employer-initiated salary reduction applied to their salary. Regulation 15 allows members whose salary has been reduced, and that reduction was not the wilful fault of the member, to continue to pay contributions based on the previous higher rate of salary. This would allow the higher salary to then be used in the calculation of their benefits.

Regulation 5 – Regulation 15A inserted (15A Award of additional service)

Inserts a new Regulation compelling the employer to award additional service to a member where the member has had an employer-initiated salary reduction applied to their salary. Any additional service will be calculated by the Scheme Actuary.

This Regulation will not apply where a member has remained in service after reaching their Normal Retiring Age under the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967. The member's pension benefits will be based on their final salary calculated at their Normal Retiring Age.

Regulation 6 – Regulation 20 (members of the Police Force and Fire Service, and Prison Governor) amended

Removes a sub-paragraph which refers to the States of Jersey Port Control Unit, which no longer exists.

PART 2 – Amendments to the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989

Regulation 7 – Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989 amended

Advises which of the PEPF Regulations are to be amended by the following draft amending Regulations.

Regulation 8 – Interpretation (amended)

Introduces the terms “employer-initiated salary reduction” and “salary reduction date” and amends the definition of “added years”. These amendments will help facilitate the application of additional service following an employer-initiated salary reduction.

Regulation 9 – Regulation 3 (member's contributions) amended

Disapplies paragraph (7) to Regulation 3 where a member has had an employer-initiated salary reduction applied to their salary. Paragraph (7) allows members whose salary has been reduced, and that reduction was not the wilful fault of the member, to continue to pay contributions based on the previous higher rate of salary. This would allow the higher salary to then be used in the calculation of their benefits.

Regulation 10 – Regulation 5 (retirement at or after normal retiring age) amended

Determines how a retirement pension should be calculated following an employer-initiated salary reduction. This Regulation ensures that the final salary calculation is only based on salary following the application of the additional service.

This draft Regulation also removes the maximum pension cap. The removal of the cap avoids a situation where a member may not be awarded added years if they had already reached the cap. This amendment would also align the public service pension legislation with the Income Tax (Jersey) Law 1961, in that there is no cap on the maximum amount of pension a member can accrue under that Law.

Regulation 11 – Regulation 7 (retirement before normal retiring age – ill-health) amended

Excludes additional service awarded under Regulation 19A when calculating service requirements for the enhancement of an ill-health retirement pension for a full-time or part-time member.

Regulation 12 – Regulation 19A inserted (19A Award of compensatory added years)

Inserts a new Regulation compelling the employer to award additional service to a member where the member has had an employer-initiated salary reduction applied to their salary. Any additional service will be calculated by the Scheme Actuary.

PART 3 – Amendments to the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992

Regulation 13 – Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992 amended

Advises which of the PEPF Regulations are to be amended by the following draft amending Regulations.

Regulation 14 – Interpretation (amended)

Introduces the terms “employer-initiated salary reduction”, “salary reduction date” and amends the definition of “pensionable service”. These amendments will help facilitate the application of additional service following an employer-initiated salary reduction.

Regulation 15 – Regulation 3 (member’s contributions) amended

Disapplies paragraph (4) to Regulation 3 where a member has had an employer-initiated salary reduction applied to their salary. Paragraph (4) allows members whose salary has been reduced, and that reduction was not the wilful fault of the member, to continue to pay contributions based on the previous higher rate of salary. This would allow the higher salary to then be used in the calculation of their benefits.

Regulation 16 – Regulation 5 (retirement at or after normal retiring age) amended

Determines how a retirement pension should be calculated following an employer-initiated salary reduction. This Regulation ensures that the final salary calculation is only based on salary following the application of the additional service.

The proposed amendment also removes the maximum pension cap. The removal of the cap avoids a situation where a member may not be awarded added years if they had already reached the cap. This amendment would also align the public service pension legislation with the Income Tax (Jersey) Law 1961, in that there is no cap on the maximum amount of pension a member can accrue under that Law.

Regulation 17 – Regulation 17A inserted (17A Award of compensatory added years)

Inserts a new Regulation compelling the employer to award additional service to a member where the member has had an employer-initiated salary reduction applied to their salary. Any additional service will be calculated by the Scheme Actuary.

This Regulation will not apply where a member has remained in service after reaching their Normal Retiring Age under the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992. The member’s pension benefits will be based on their final salary calculated at their Normal Retiring Age.

PART 4 – Amendments to the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989

Regulation 18 – Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989 amended

Advises which of the PEPF Regulations are to be amended by the following draft amending Regulations.

Regulation 19 – Interpretation (amended)

Introduces the terms “employer-initiated salary reduction” and “salary reduction date” and amends the definition of “added years”. These amendments will help facilitate the application of additional service following an employer-initiated salary reduction.

Regulation 20 – Regulation 3 (member’s contributions) amended

Disapplies paragraph (7) to Regulation 3 where a member has had an employer-initiated salary reduction applied to their salary. Paragraph (7) allows members whose salary has been reduced, and that reduction was not the wilful fault of the member, to continue to pay contributions based on the previous higher rate of salary. This would allow the higher salary to then be used in the calculation of their benefits.

Regulation 21 – Regulation 5 (retirement at or after normal retiring age) amended

Determines how a retirement pension should be calculated following an employer-initiated salary reduction. This Regulation ensures that the final salary calculation is to be only based on salary following the application of the additional service.

This draft Regulation also removes the maximum pension cap. The removal of the cap avoids a situation where a member may not be awarded added years if they had already reached the cap. This amendment would also align the public service pension legislation with the Income Tax (Jersey) Law 1961, in that there is no cap on the maximum amount of pension a member can accrue under that Law.

Regulation 22 – Regulation 7 (retirement before normal retiring age – ill-health) amended

Excludes additional service awarded under Regulation 19A when calculating service requirements for the enhancement of an ill-health retirement pension. This applies for both for full-time and part-time members.

Regulation 23 – Regulation 19A inserted (19A Award of compensatory added years)

Inserts a new Regulation compelling the employer to award additional service to a member where the member has had an employer-initiated salary reduction applied to their salary. Any additional service will be calculated by the Scheme Actuary.

Regulation 24 – Citation and commencement

States the name of the Regulations and when they would come into force.

Financial and manpower implications

The draft Regulations have no financial or manpower implications for the Government of Jersey and are not expected to create additional liabilities in the PEPF.

Explanatory Note

These draft Regulations, if made by the States, would amend 4 sets of Regulations which govern the Public Employees Contributory Retirement Scheme (“PECRS”). The effect of the proposed amendments would be to compensate members of the PECRS who suffer a reduction to their expected pension on retirement, with an award of additional service i.e. “added years”. A reduction in pension would occur where a member’s salary is reduced because of a workforce restructure or because of a re-evaluation of that member’s job and pay.

The amendments to each of the following Regulations (the “respective Regulations”) are essentially the same –

- (a) the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967;
- (b) the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992;
- (c) the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989; and
- (d) the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989.

Regulations 2, 8, 13 and 19 define the expression “employer-initiated salary reduction” in each of the respective Regulations.

Regulations 3, 10, 15 and 21 amend the respective Regulations by making provision for the calculation of a member’s annual rate of retirement pension where an employer-initiated salary reduction has been applied and compensatory added years awarded.

Regulations 5, 11, 17 and 23 insert new Regulations into each of the respective Regulations to require the States Employment Board, or any other employer that participates in the PECRS, to award a member whose pension is reduced as a result of a reduction in salary, an award of added years of pensionable service. The actual number of added years awarded is determined by the Actuary who will take into account the member’s total accrued pensionable service and the member’s salary received before and after the reduction was applied.

Other provisions in these Regulations make consequential amendments to the respective Regulations arising from the introduction of the new compensatory added years provision.

Regulation 24 provides for the title by which these Regulations may be cited and for their coming into force 7 days after they are made.



Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (COMPENSATORY ADDED YEARS) (AMENDMENTS) (JERSEY) REGULATIONS 201-

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Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (COMPENSATORY ADDED YEARS) (AMENDMENTS) (JERSEY) REGULATIONS 201-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES make the following Regulations under Article 2 of the Public Employees (Retirement) (Jersey) Law 1967¹ –

PART 1

AMENDMENTS TO THE PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (JERSEY) REGULATIONS 1967

1 Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 amended

The Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967² are amended under this Part.

2 Regulation 1 (interpretation) amended

In Regulation 1(1) –

- (a) in the definition “average salary” and in clauses (i) to (iii) of the proviso of that definition, for “preceding” there is substituted “before and including”;
- (b) after the definition “employer” there is inserted –
 - ““employer-initiated salary reduction” means, in relation to a contributory member’s salary, the application of a reduction to that salary by an employer as a result of –
 - (a) a workforce or other organisational restructure affecting that contributory member’s employment; or

- (b) a re-evaluation of any salary scale or structure that may apply in respect of that contributory member’s employment;”;
- (c) after the definition “salary” there is inserted –
 - ““salary reduction date” means the date an employer-initiated salary reduction is applied;”.

3 Regulation 7 (retirement pension) amended

In Regulation 7 –

- (a) in paragraph (2), for “Subject to paragraph (3)” there is substituted “Subject to paragraphs (2A) (2B) and (3)”;
- (b) after paragraph (2) there is inserted –
 - “(2A) Paragraph (2B) applies where –
 - (a) an employer-initiated salary reduction is applied to a contributory member’s salary; and
 - (b) the member is awarded added years of service under Regulation 15A.
 - (2B) Where this paragraph applies –
 - (a) the contributory member’s salary for each year of service before an employer-initiated salary reduction is applied is to be disregarded for the purposes of calculating the annual rate of retirement pension under paragraph (2); and
 - (b) for the purposes of that calculation under paragraph (2), the contributory member’s average salary is determined for each description of case set out in column 1 of the following table, by reference to the corresponding method of calculation set out in column 2 of that table –

1 Description of case	2 Method of calculation
Case A: contributory member – (a) leaves service earlier than normal retiring age but 3 or more years’ after the salary reduction date; or (b) attains normal retiring age 3 or more years after the salary reduction date.	Average salary is determined by reference to the contributory member’s – average salary for each year of service in the 3 years immediately before, and ending on the day on which he or she leaves service or attains normal retiring age, whichever is the earlier.

<p>Case B: contributory member –</p> <p>(a) leaves service earlier than normal retiring age but less than 3 years’ but more than one year after the salary reduction date; or</p> <p>(b) attains normal retiring age less than 3 years’ but more than one year after the salary reduction date.</p>	<p>Average salary is determined by reference to the contributory member’s –</p> <p>average salary for each year of service after the salary reduction date, and ending on the day on which he or she leaves service or attains normal retiring age, whichever is the earlier.</p>
<p>Case C: contributory member –</p> <p>(a) leaves service earlier than normal retiring age but one year or less after the salary reduction date; or</p> <p>(b) attains normal retiring age one year or less after the salary reduction date.</p>	<p>Average salary is determined by reference to the contributory member’s –</p> <p>whole year equivalent salary for that year or part-year of service after the salary reduction date, and ending on the day on which he or she leaves service or attains normal retiring age, whichever is the earlier.”.</p>

(c) for paragraph (3), there is substituted –

“(3) For the purpose of calculating the number of completed years of service, the maximum number of years of service referred to in paragraph (2) and that paragraph as modified by Regulations 17(b), 18(b), 19(b), 20(1)(c) and (2)(c) and 20A(c), are to be disregarded in respect of service attributable to –

(a) a refund or a transfer value paid under –

(i) Regulation 12 before its repeal by the Public Employees (Contributory Retirement Scheme) (Miscellaneous Amendments) (Jersey) Regulations 2015³, or

(ii) original Regulation 14 before its repeal by the Public Employees (Contributory Retirement Scheme) (Amendment No. 11) (Jersey) Regulations 1989⁴; or

(b) any additional period of service awarded under Regulation 15A.”.

4 Regulation 15 (reduction of salary) amended

In Regulation 15 –

(a) in paragraph (1) for “In any case” there is substituted “Subject to paragraph (4), in any case”;

(b) after paragraph (3) there is inserted –

“(4) This Regulation does not apply where the contributory member’s salary is reduced as a result of an employer-initiated salary reduction.”.

5 Regulation 15A inserted

After Regulation 15 there is inserted –

“15A Award of additional service

- (1) Subject to paragraph (3), this Regulation has effect where an employer-initiated salary reduction is applied to a contributory member’s salary.
- (2) The employer must, by way of compensation for the detriment caused to that member’s pension as a result of the reduction, award the member with such additional period of service as is determined by the Actuary having regard, amongst other things, to –
 - (a) the amount of service accrued by the member immediately before the salary reduction date; and
 - (b) the member’s salary received before the salary reduction date and on and after that date.
- (3) This Regulation does not have effect where an employer-initiated salary reduction is applied in the case of a member who has attained normal retiring age but has not left service.”.

6 Regulation 20 (members of the Police Force and Fire Service, and Prison Governor) amended

Regulation 20(1)(f) (including its proviso) is deleted.

PART 2

**AMENDMENTS TO THE PUBLIC EMPLOYEES (CONTRIBUTORY
RETIREMENT SCHEME) (FORMER HOSPITAL SCHEME) (JERSEY)
REGULATIONS 1992**

7 Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992 amended

The Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992⁵ are amended under this Part.

8 Regulation 1 (interpretation) amended

In Regulation 1 –

- (a) after the definition “employer” there is inserted –

- ““employer-initiated salary reduction” means in relation to a member’s salary, the application of a reduction to that salary by an employer as a result of –
 - (a) a workforce or other organisational restructure affecting that member’s employment; or
 - (b) a re-evaluation of any salary scale or structure that may apply in respect of that member’s employment;”;
- (b) in the definition “final pensionable salary” for “preceding” there is substituted “before and including”;
- (c) in the definition “pensionable service” for paragraph (e) there is substituted –
 - “(e) any added years of pensionable service granted to a member on account of –
 - (i) augmentation under Regulation 15,
 - (ii) a pensionable allowance giving rise to added years under Regulation 17, or
 - (iii) an employer-initiated salary reduction and awarded by way of compensation under Regulation 17A; and”;
- (d) after the definition “salary” there is inserted –
 - ““salary reduction date” means the date an employer-initiated salary reduction is applied;”.

9 Regulation 3 (member’s contributions) amended

In Regulation 3 –

- (a) in paragraph (4) for “In any case” there is substituted “Subject to paragraph (5), in any case”;
- (b) after paragraph (4) there is inserted –
 - “(5) Paragraph (4) does not apply where a member’s salary is reduced as a result of an employer-initiated salary reduction.”.

10 Regulation 5 (retirement at or after normal retiring age) amended

In Regulation 5 –

- (a) for paragraph (3) there is substituted –
 - “(3) Subject to paragraphs (4) and (5), and Regulation 21, the pension payable to a male member and the pension and lump sum payable to a female member on retirement is calculated as follows –
 - (a) in the case of a male member –
 - (i) 1/60 of the member’s average salary for each year of pensionable service, and

- (ii) disregarding any added years of pensionable service credited to a member on account of a pensionable allowance under Regulation 17 or awarded by way of compensation under Regulation 17A, the member's pensionable service cannot exceed 45 years; and
- (b) in the case of a female member –
 - (i) 1/80 of the member's average salary for each year of pensionable service, together with a lump sum equal to 3/80 of the member's average salary for each year of pensionable service, and
 - (ii) disregarding any added years of pensionable service credited to a member on account of a pensionable allowance under Regulation 17 or awarded by way of compensation under Regulation 17A, the member's pensionable service cannot exceed 40 years.”.
- (b) after paragraph (3) there is inserted –
 - “(4) Paragraph (5) applies where –
 - (a) an employer-initiated salary reduction is applied to a member's salary; and
 - (b) the member is awarded added years under Regulation 17A.
 - (5) Where this paragraph applies –
 - (a) the member's salary received in any period before an employer-initiated salary reduction is applied is to be disregarded for the purposes of calculating the annual rate of pension under paragraph (3)(a)(i) or (b)(i); and
 - (b) for the purposes of that calculation under paragraph (3)(a)(i) or (b)(i), the member's average salary is determined for each description of case set out in column 1 of the following table, by reference to the corresponding method of calculation set out in column 2 of that table –

1 Description of case	2 Method of calculation
Case A: member – (a) leaves service earlier than normal retiring age but 3 or more years' after the salary reduction date; or (b) attains normal retiring age 3 or more years after the salary reduction date.	Average salary is determined by reference to the member's – average salary for each year of service in the 3 years immediately before, and ending on the day on which he or she leaves service or attains normal retiring age, whichever is the earlier.
Case B: member – (a) leaves service earlier than normal retiring age but less than	Average salary is determined by reference to the member's – average salary for each year of service

<p>3 years' but more than one year after the salary reduction date; or (b) attains normal retiring age less than 3 years' but more than one year after the salary reduction date.</p>	<p>after the salary reduction date, and ending on the day on which he or she leaves service or attains normal retiring age, whichever is the earlier.</p>
<p>Case C: member – (a) leaves service earlier than normal retiring age but one year or less after the salary reduction date; or (b) attains normal retiring age one year or less after the salary reduction date.</p>	<p>Average salary is determined by reference to the member's – whole year equivalent salary for that year or part-year of service after the salary reduction date, and ending on the day on which he or she leaves service or attains normal retiring age, whichever is the earlier.”.</p>

11 Regulation 17A inserted

After Regulation 17 there is inserted –

“17A Award of compensatory added years

- (1) Subject to paragraph (3), this Regulation has effect where an employer-initiated salary reduction is applied to a member's salary.
- (2) The employer must, by way of compensation for the detriment caused to that member's pension as a result of the reduction, award the member with such added years of pensionable service as is determined by the Actuary having regard, amongst other things, to –
 - (a) the amount of service accrued by the member immediately before the salary reduction date; and
 - (b) the member's salary received before the salary reduction date, and on and after that date.
- (3) This Regulation does not have effect where an employer-initiated salary reduction is applied in the case of a member who has attained normal retiring age but has not left service.”.

PART 3**AMENDMENTS TO THE PUBLIC EMPLOYEES (CONTRIBUTORY
RETIREMENT SCHEME) (EXISTING MEMBERS) (JERSEY)
REGULATIONS 1989****12 Public Employees (Contributory Retirement Scheme) (Existing Members)
(Jersey) Regulations 1989 amended**

The Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989⁶ are amended under this Part.

13 Regulation 1 (interpretation) amended

In Regulation 1 –

- (a) for the definition “added years” there is substituted –
- “ “added years” means such period of additional pensionable service as may be granted to a member on account of –
 - (a) any refund paid or transfer value received, as referred to in repealed Regulation 7 of the General Regulations or transfer payment under Regulation 23 of the Administration Regulations;
 - (b) any additional voluntary contributions (and related employer contributions) paid under Regulation 3;
 - (c) augmentation pursuant to Regulation 17;
 - (d) in the case of a member referred to in Regulation 2(3)(a), any special contributions paid under arrangements made whilst a member of the Former Hospital Scheme;
 - (e) any pensionable allowance; and
 - (f) an employer-initiated salary reduction and awarded by way of compensation under Regulation 19A;”;
- (b) after the definition “employer” there is inserted –
- “ “employer-initiated salary reduction” means, in relation to a member’s salary, the application of a reduction to that salary by an employer as a result of –
 - (a) a workforce or other organisational restructure affecting that member’s employment; or
 - (b) a re-evaluation of any salary scale or structure that may apply in respect of that member’s employment;”;
- (c) in the definition “final pensionable salary” for “preceding” there is substituted “before and including”;
- (d) after the definition “salary” there is inserted –
- “ “salary reduction date” means the date an employer-initiated salary reduction is applied;”.

14 Regulation 3 (member's contributions) amended

In Regulation 3 –

- (a) in paragraph (7) for “In any case” there is substituted “Subject to paragraph (9), in any case”;
- (b) after paragraph (8) there is inserted –
 - “(9) Paragraph (7) does not apply where a member's salary is reduced as a result of an employer-initiated salary reduction.”.

15 Regulation 5 (retirement at or after normal retiring age) amended

In Regulation 5 –

- (a) for paragraph (1) there is substituted –
 - “(1) Subject to paragraphs (3) and (4), and Regulation 17 of the General Regulations, on retirement from service at, or after normal retiring age a member is entitled to receive a pension calculated as follows –
 - (a) in the case of a category A member or a category B member –
 - (i) the annual rate of pension is 1/45 of the member's average salary for each completed year (and pro rata for completed days) of pensionable service, and
 - (ii) disregarding any added years credited on account of a pensionable allowance under Regulation 18 or awarded by way of compensation under Regulation 19A, the member's pensionable service cannot exceed 35 years;
 - (b) in the case of any other member –
 - (i) the annual rate of pension is 1/60 of the member's average salary for each completed year (and pro rata for completed days) of pensionable service, and
 - (ii) disregarding any added years credited on account of a pensionable allowance under Regulation 18 or awarded by way of compensation under Regulation 19A, the member's pensionable service cannot exceed 45 years.”;
- (b) after paragraph (2) there is inserted –
 - “(3) Paragraph (4) applies where –
 - (a) an employer-initiated salary reduction is applied to a member's salary; and
 - (b) the member is awarded added years under Regulation 19A.
 - (4) Where this paragraph applies –
 - (a) the member's salary received in any period before an employer-initiated salary reduction is applied is to be

- disregarded for the purposes of calculating the annual rate of pension under paragraph (1)(a)(i) or (b)(i); and
- (b) for the purposes of that calculation under paragraph (1)(a)(i) or (b)(i), the member's average salary is –
- (i) in the case of a member who retires from service 3 or more years after the salary reduction date, that member's final pensionable salary received on and after the salary reduction date during the best successive 365 days in the 3 years immediately before, and ending on the day on which he or she retires from service;
 - (ii) in the case of a member who retires from service less than 3 years' but more than one year after the salary reduction date, that member's final pensionable salary received on and after the salary reduction date during the best successive 365 days in the period commencing on the salary reduction date and ending on the day on which he or she retires from service; or
 - (iii) in the case of a member who retires from service one year or less after the salary reduction date, that member's final pensionable salary received on and after the salary reduction date, divided by the number of days for which the member received that salary multiplied by 365, and ending on the day on which he or she retires from service.”.

16 Regulation 7 (retirement before normal retiring age – ill-health) amended

In Regulation 7 –

- (a) in column (1) of the table in paragraph (2)(a), for “added years under Regulation 3 or 19” there is substituted “added years under Regulation 3, 19 or 19A”;
- (b) in paragraph (2)(e)(iii) for “and any pensionable allowance giving rise to added years of service under Regulation 19” there is substituted “, any pensionable allowance giving rise to added years of pensionable service under Regulation 19 and any added years awarded by way of compensation under Regulation 19A”.

17 Regulation 19A inserted

After Regulation 19 there is inserted –

“19A Award of compensatory added years

- (1) This Regulation has effect where an employer-initiated salary reduction is applied to a member's salary.

- (2) The employer must, by way of compensation for the detriment caused to that member's pension as a result of the reduction, award the member with such added years as is determined by the Actuary having regard, amongst other things, to –
 - (a) the amount of service accrued by the member immediately before the salary reduction date; and
 - (b) the member's salary received in the period before the salary reduction date, and on and after that date.”.

PART 4

AMENDMENTS TO THE PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (NEW MEMBERS) (JERSEY) REGULATIONS 1989

18 Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989 amended

The Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989⁷ are amended under this Part.

19 Regulation 1 (interpretation) amended

In Regulation 1 –

- (a) in the definition “added years” –
 - (i) for “notional” there is substituted “additional”,
 - (ii) for paragraphs (d) and (e) there is substituted –
 - “(d) in the case of a member referred to in Regulation 2(3)(a), any special contributions paid under arrangements made whilst a member of the Former Hospital Scheme;
 - (e) any pensionable allowance; and
 - (f) an employer-initiated salary reduction and awarded by way of compensation under Regulation 19A;”;
- (b) after the definition “employer” there is inserted –
 - ““employer-initiated salary reduction” means in relation to a member's salary, the application of a reduction to that salary by an employer as a result of –
 - (a) a workforce or other organisational restructure affecting that member's employment; or
 - (b) a re-evaluation of any salary scale or structure that may apply in respect of that member's employment;”;
- (c) in the definition “final pensionable salary” for “preceding” there is substituted “before and including”;

- (d) after the definition “salary” there is inserted –
- “salary reduction date” means the date an employer-initiated salary reduction is applied;”.

20 Regulation 3 (member’s contributions) amended

In Regulation 3 –

- (a) in paragraph (7) for “In any case” there is substituted “Subject to paragraph (9), in any case”;
- (b) after paragraph (8) there is inserted the following paragraph –
- “(9) Paragraph (7) does not apply where a member’s salary is reduced as a result of an employer-initiated salary reduction.”.

21 Regulation 5 (retirement at or after normal retiring age) amended

In Regulation 5 –

- (a) for paragraph (1) there is substituted –
- “(1) Subject to paragraphs (3) and (4), and Regulation 17 of the General Regulations, on retirement from service at or after normal retiring age, a member is entitled to receive a pension calculated as follows –
 - (a) in the case of a category A member or a category B member –
 - (i) the annual rate of pension is 1/45 of the member’s average salary for each completed year (and pro rata for completed days) of pensionable service which relates to participation in the scheme under the 1967 Regulations or participation in the Former Hospital Scheme under the Former Hospital Scheme Rules,
 - (ii) the annual rate of pension is 1/60th of the member’s average salary for each completed year (and pro rata for completed days) of pensionable service in respect of the remainder of the member’s pensionable service, and
 - (iii) disregarding any added years, the member’s pensionable service cannot exceed 35 years by limiting (if necessary) the member’s pensionable service which counts under clause (ii);
 - (b) in the case of a category C member, the annual rate of pension is 1/70th of the member’s average salary for each completed year (and pro rata for completed days) of pensionable service;
 - (c) in the case of any other member –

- (i) the annual rate of pension is 1/60 of the member's average salary for each completed year (and pro rata for completed days) of pensionable service which relates to participation in the scheme under the 1967 Regulations or participation in the Former Hospital Scheme under the Former Hospital Scheme Rules,
 - (ii) the annual rate of pension is 1/80th of the member's average salary for each completed year (and pro rata for completed days) of pensionable service in respect of the remainder of the member's pensionable service, and
 - (iii) disregarding any added years, the member's pensionable service cannot exceed 45 years by limiting (if necessary) the member's pensionable service which counts under clause (ii).";
- (b) after paragraph (2) there is inserted –
- (3) Paragraph (4) applies where –
 - (a) an employer-initiated salary reduction is applied to a member's salary; and
 - (b) the member is awarded added years under Regulation 19A.
 - (4) Where this paragraph applies –
 - (a) the member's salary received in any period before an employer-initiated salary reduction is applied, is to be disregarded for the purposes of calculating the annual rate of pension under paragraph (1)(a)(i) and (ii), (c) or (b)(i) and (ii); and
 - (b) for the purposes of that calculation under paragraph (1)(a)(i) and (ii), (c) or (b)(i) and (ii), the member's average salary is –
 - (i) in the case of a member who retires from service 3 or more years after the salary reduction date, that member's final pensionable salary received on and after the salary reduction date during the best successive 365 days in the 3 years immediately before, and ending on the day on which he or she retires from service;
 - (ii) in the case of a member who retires from service less than 3 years' but more than one year after the salary reduction date, that member's final pensionable salary received on and after the salary reduction date during the best successive 365 days in the period commencing on the salary reduction date and ending on the day on which he or she retires from service; or
 - (iii) in the case of a member who retires from service one year or less after the salary reduction date, that member's final pensionable salary received on and

after the salary reduction date, divided by the number of days for which the member received that salary multiplied by 365, and ending on the day on which he or she retires from service.”.

22 Regulation 7 (retirement before normal retiring age – ill-health) amended

In Regulation 7 –

- (a) in column (1) of the table in paragraph (2)(a), for “added years under Regulation 3 or 19” there is substituted “added years under Regulation 3, 19 or 19A”;
- (b) in paragraph (2)(e)(iii) for “and any pensionable allowance giving rise to added years of service under Regulation 19” there is substituted “, any pensionable allowance giving rise to added years of service under Regulation 19 and any added years awarded by way of compensation under Regulation 19A”.

23 Regulation 19A inserted

After Regulation 19 there is inserted –

“19A Award of compensatory added years

- (1) This Regulation has effect where an employer-initiated salary reduction is applied to a member’s salary.
- (2) The employer must, by way of compensation for the detriment caused to that member’s pension as a result of the reduction, award the member with such added years as is determined by the Actuary having regard, amongst other things, to –
 - (a) the amount of service accrued by the member immediately before the salary reduction date; and
 - (b) the member’s salary received before the salary reduction date, and on and after that date.”.

PART 5

CLOSING

24 Citation and commencement

These Regulations may be cited as the Public Employees (Contributory Retirement Scheme) (Compensatory Added Years) (Amendments) (Jersey) Regulations 201- and come into force 7 days after the day they are made.

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- 1 *chapter 16.650*
 - 2 *chapter 16.650.48*
 - 3 *R&O.104/2015*
 - 4 *R&O.7957*
 - 5 *chapter 16.650.24*
 - 6 *chapter 16.650.12*
 - 7 *chapter 16.650.60*