STATES OF JERSEY

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DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (GENERAL) (AMENDMENT No. 9) (JERSEY) REGULATIONS 200-

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Lodged au Greffe on 13th March 2007
by the Chief Minister

STATES GREFFE

Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (GENERAL) (AMENDMENT No. 9) (JERSEY) REGULATIONS 200-

REPORT

The Chief Minister is promoting amendments to the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989.

The amendments relate to Regulation 9 which provides the Chief Minister with the power to extend membership of the Public Employees Contributory Retirement Scheme (PECRS) to employers other than the States.

There are a number of admitted groups of employees, including eight Parishes, and employees at the Jersey Financial Services Commission, Jersey Telecom, Jersey Post and Jersey Advisory and Conciliatory Service. When employers are granted Admitted Body status in PECRS a Terms of Admission Document is issued documenting the employer obligations and their fiduciary responsibilities.

(1) Following recent advice from the Attorney General an amendment was made to Article 4 of the Public Employees (Retirement) (Jersey) Law 1967 in order to allow for a proposed new Regulation 9(1)(d) of the Public Employees Contributory Retirement Scheme (PECRS). This is intended to ensure that the terms of an Admission Document do in effect contain statutory duties on the part of the Chief Minister, the Committee of Management of the PECRS, the actuary or the employer to whom the admission document applies.

(2) An admission arrangement can be terminated by the employer or the Chief Minister on 6 months notice. When that notice period has expired the Committee of Management of the PECRS shall arrange for appropriate assets of the scheme to be set aside and used for the benefit of those employees. Additional amendments to Regulation 9 will increase the range of choices for an employee if an admission arrangement is terminated. These choices are as follows:

(a) if the employee exits PECRS and becomes a member of an employer’s scheme the employee may request a transfer of assets for PECRS membership, as deemed appropriate by the actuary, to the pension scheme of that employer or for a deferred pension in PECRS;

(b) if the employee requests, a transfer value to purchase an annuity in the employee’s name or in the name of a trustee or trustees for the employee’s benefit;

(c) if the employee requests by paying a transfer value to the trustees or managers of a pension scheme or personal pension scheme;

(d) in the absence of the above a deferred pension in PECRS governed by the Regulations that applied to the employee before the termination.

(3) Finally, if an admission arrangement is terminated on 6 months’ notice by the employer or the Chief Minister and the relevant admission document says so, the employer will have to make up any relevant deficit in PECRS assets before the employees exit as a result of that termination.

These amendments have been discussed and agreed with the PECRS Committee of Management and the Public Employees Pension Scheme Joint Negotiating Group.

There are no financial or manpower implications arising from this draft Law.

Explanatory Note

These Regulations relate to the existing arrangement under which the Chief Minister may admit non-civil-service employees to the Public Employees Contributory Retirement Scheme after their employer has executed one or more admission documents required by the Chief Minister. The arrangement may, in general, be terminated on 6 months' notice by the employer or the Chief Minister.

First, an admission document is to be regarded as determining the terms of admission and the relevant rights, duties and other functions, as well as the relevant liabilities. However, the document cannot override the PECRS principles set out in the enactments governing that scheme.

Secondly, if an admission arrangement is terminated in respect of any employees on 6 months' notice by the employer or by the Chief Minister, the employees who exit PECRS as a result of that termination will now have additional choices.

In the case of an employee who transfers to a pension scheme of the employer, the employee will have to decide whether to have assets transferred from PECRS to that pension scheme.

If the employee does not transfer to such a pension scheme or transfers to such a pension scheme but does not have PECRS assets transferred to that scheme, the employee will have not only the present options (the purchase of annuities and the payment of a transfer value into another scheme) but an additional option of a deferred pension. A deferred pension will be governed by the pension Regulations that applied to the employee before the termination, but the pension will be subject to an adjustment reflecting the value of the relevant PECRS assets.

The option of a deferred pension will in fact apply by default if an exiting employee does not choose the transfer of assets to a pension scheme of the employer, the purchase of annuities or the payment of a transfer value into another pension scheme.

Thirdly, if –

(a) an admission arrangement is terminated on 6 months' notice by the employer or by the Chief Minister; and

(b) the relevant admission document says so,

the employer will have to make up any relevant deficit in PECRS assets before the employees exit as a result of that termination.

These Regulations include certain minor and consequential amendments.

Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (GENERAL) (AMENDMENT No. 9) (JERSEY) REGULATIONS 200-

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

THE STATES, in pursuance of Articles 2 and 4 of the Public Employees (Retirement) (Jersey) Law 1967[1], have made the following Regulations –

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1 Interpretation

In these Regulations, "principal Regulations" means the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989[2].

2 Regulation 4 amended

In Regulation 4(1)(c) of the principal Regulations, for the words "Regulation 7(1)" there shall be inserted the words "Regulation 7(1) or 9(9)".

3 Regulation 9 amended

In the principal Regulations –

(a) in Regulation 9(1)(b), before the words "such of the employees of that employer" there shall be inserted the words "the employer to the scheme, and admit";

(b) at the end of Regulation 9(1)(c), there shall be inserted the following sub-paragraph –

"(d) Any terms of a document executed (whether before or after the insertion of this sub-paragraph in these Regulations) under sub-paragraph (b), except to the extent of any conflict between those terms and the provisions of the Law or of any enactment made under the Law –

(i) shall, to the extent that they purport to be terms of admission to the scheme of those employers, or those employees, to whom the document applies, be taken to constitute such terms, and

(ii) shall, to the extent that they purport to prescribe the rights, duties or other functions, or liabilities, of the Chief Minister, the Committee, the Actuary or the Treasurer, or of the employer, or the employees, to whom the document applies, determine those rights, duties or other functions, or liabilities, in respect of the admission, the admitted employers, the admitted employees, or the scheme as constituted after the admission.";

(c) in Regulation 9(2)(a), before the words "the admission of employees" there shall be inserted the words “admission to participate in the scheme and for”;

(d) in Regulation 9(2)(b), before the words “their admission” there shall be inserted the words “the employer’s admission to participate in the scheme and for”;

(e) for Regulation 9(4), (5) and (6) there shall be substituted the following paragraphs –

“(4) An employer other than the States or the States Employment Board may give 6 months’ notice to the Committee that some of the employees in the employment of the employer (or the employer and all of the employees in the employment of the employer who participate in the scheme) shall cease to participate in the scheme and the Chief Minister may (subject, if paragraph (2) applies, to the agreement of the Committee) give such an employer 6 months’ notice to like effect. When such notice has expired, the Committee shall arrange for such part of the assets of the scheme as are certified by the Actuary to be appropriate to be set aside and disposed of for the benefit of those employees –

(a) if the employer so requests, and subject to paragraph (5) and to the Committee’s being satisfied that the terms of the transfer are equitable in all the circumstances, by transferring to a pension scheme of that employer such part of the assets of the scheme as in the opinion of the Actuary relates to any of those employees who becomes a member of such a pension scheme; or

(b) in respect of any of the employees for whom no such transfer is made –

(i) if the employee so requests by a date to be specified by the Committee, by purchasing, in accordance with paragraph (6), from an insurance company or insurance office of good repute, annuities for the purpose of satisfying any pension or other benefits which may in the future become payable under the scheme by virtue of the employee’s membership,

(ii) if the employee so requests by a date to be specified by the Committee, by paying a transfer value to the trustees or managers of a pension scheme or personal pension scheme, or

(iii) if the employee has not made a request referred to in clause (i) or (ii), by granting an entitlement to a deferred pension as referred to in such Regulations under the Law as applied to the employee immediately before the expiry of the notice under this paragraph, subject to such adjustment (if any) as the Actuary thinks fit on taking into account the value of the part of the assets certified by the Actuary as referred to earlier.

(5) If an employee becomes (as referred to in paragraph (4)(a)) a member of an employer’s pension scheme –

(a) a transfer of assets referred to in paragraph (4)(a) shall not be made in respect of the employee unless the employee so requests by a date to be specified by the Committee; and

(b) nothing in paragraph (4)(a) prevents the application of paragraph (4)(b) to an employee who becomes (as referred to in paragraph (4)(a)) a member of an employer’s pension scheme if in fact no transfer of assets is made under paragraph (4)(a) in respect of the employee.

(6) Where pursuant to paragraph (4) annuities are to be purchased–

(a) any increases on pensions in payment and on deferred pensions shall (instead of being as provided by Regulation 11) be as determined by the Committee on the advice of the Actuary, having regard to the proportion of the assets of the scheme which are set aside; and

(b) any annuity so purchased shall be purchased in the name of the employee or in the name of a trustee or trustees for the employee’s benefit.

(7) No person on whose behalf an annuity is purchased or a transfer value is paid under this Regulation shall thereafter have any claim on, or interest in, the scheme.

(8) Before the Actuary gives a certificate referred to in paragraph (4), he shall issue a certificate stating the termination contribution.

(9) The employer shall pay the amount of the termination contribution to the assets of the scheme before the expiry of the 6 months' notice period referred to in paragraph (4) and that amount shall be included in the part of the assets certified under that paragraph.

(10) For the purposes of this Regulation, the termination contribution shall be –

(a) the past service liabilities of the scheme attributable to the employees who are to cease to participate in the scheme; minus

(b) the part of the assets that would be appropriate to be set aside and disposed of in accordance with paragraph (4) if no amount were paid to those assets under paragraph (9),

but shall be zero if that part of the assets exceeds those past service liabilities.

(11) The past service liabilities shall be calculated on the actuarial assumptions used for the most recent report of which a copy has been laid before the States in accordance with Article 3(5) of the Law, and shall include allowances for projected salary and pension increases made in accordance with those assumptions.

(12) If any part of a termination contribution is not paid by the employer, the Committee is not required under paragraph (4) to dispose of assets corresponding to the part that remains unpaid.

(13) Paragraphs (8) to (12) shall apply only in a case where a document referred to in paragraph (1)(b) states that those paragraphs shall apply to the employer who executed the document.".

4 Citation and commencement

(1) These Regulations may be cited as the Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 9) (Jersey) Regulations 200-.

(2) These Regulations shall come into force on the seventh day after they are made.

[1] *chapter 16.650*

[2] *chapter 16.650.36*