

# STATES OF JERSEY



## **DRAFT PUBLIC EMPLOYEES (PENSION SCHEME) (MISCELLANEOUS AMENDMENTS) (No. 2) (JERSEY) REGULATIONS 202- (P.74/2020): COMMENTS**

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**Presented to the States on 13th July 2020  
by the Corporate Services Scrutiny Panel**

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**STATES GREFFE**

## COMMENTS

1. [Draft Public Employees \(Pension Scheme\) \(Miscellaneous Amendments\) \(No.2\) \(Jersey\) Regulations 202-](#) (hereafter “the draft Regulations”) have been lodged by the States Employment Board (“SEB”) on 3rd June 2020 for debate by the States Assembly on the 14th July 2020. If passed, the Regulations will make miscellaneous updating and housekeeping amendments to 3 sets of Public Pension Scheme Regulations (the “PEPS Regulations” and “Scheme”).
2. On reviewing the draft Regulations, the Corporate Services Scrutiny Panel (the “Panel”) has been satisfied with the majority of the proposed miscellaneous and housekeeping amendments.
3. The Panel requested a briefing with a ministerial member of SEB and relevant officers as it had 2 areas of concerns related to Regulations 17, 24 and 33.
4. Regulation 17 removes the current requirement for a member of the Scheme to nominate a cohabiting partner to receive a survivor pension (as defined in Regulation 1 of the Members and Benefits Regulations) and make a declaration that he or she has been cohabiting with that person for at least 2 years.
5. Regulation 24 adds a parent to the list of persons who may be nominated by an active member of the Scheme to receive a lump sum in the event that the member dies prematurely before retiring from employment.
6. Regulation 33 disapples a restriction currently contained in 2 of the 1967 Scheme Regulations to the effect that survivor benefits are not payable to persons who married or entered into a civil partnership (or other specified relationship) with the member after he or she reaches normal retiring age.
7. The Panel asked SEB to clarify whether the –
  - (a) proposed amendment to Regulation 17 could result in an increase in potentially fraudulent claims;
  - (b) financial implications for the Public Employee Pension Fund (the “Fund”) due to the proposed amendments to Regulation 24 and Regulation 33 had been considered.
8. During the meeting with SEB the Panel was reassured that the proposed amendment to –
  - (a) Regulation 17 the definition of what constitutes a “cohabiting” partner remains the same but that the person would be required to produce evidence that he or she was the member’s cohabiting partner for a continuous period of 2 years up to the date of the member’s death and that current procedures, such as the requirement to provide proof of residence, marriage certificates or further evidence, would negate the risk of fraudulent claims. The Panel was further advised by SEB that the draft Regulation was being amended following a

Supreme Court ruling in the UK which disapplied the requirement for a form to be completed;<sup>1</sup>

- (b) the proposed amendment to Regulations 24 would not unduly increase the number of claims as the amendment had been the case in practice, with the draft Regulations formalising the matter;
  - (c) the number of claims in Regulation 33 would match those that had been budgeted in the Public Employees (Pension Scheme).
9. The Panel confirmed with SEB that within its consideration of the draft regulations it was content that –
- (a) the drafted Regulations would narrow reference to Commencement Date given in existing legislation to specific dates and that this would bring clarity when certain provisions had commenced;
  - (b) Regulation 22 of the draft Regulations would link the PEPF legislation to Article 131CE of the [Income Tax \(Jersey\) Law 1961](#) (the “Tax Law”) in order to negate the need for Regulations to be updated when the limits in the Tax Law change. The Panel is content that it is a sensible measure to link the draft Regulations to the Tax Law;
  - (c) Regulation 35 would enable members of the [1967 Public Employees Contributory Retirement Scheme](#) who have retired on grounds of ill health and subsequently returned to work in the Public Sector to elect to be treated as a transition member within 3 months of accepting an offer of employment. The Panel is content that it is a sensible measure to account for previous service and pension payments;
  - (d) Regulation 36 which inserts a new Regulation 13A into the Transitional Regulations which would enable a transition member who has been diagnosed as terminally ill to exchange the whole of his or her 1967 Scheme benefits for a lump sum. The Panel believes this to be a sensible and fair clarification;
  - (e) Regulation 37 which inserts a new Regulation 14A into the Transitional Regulations would enable a uniformed transition member who has accrued less than 10 years’ pensionable service in the 1967 Scheme, to aggregate that service and pensionable service accrued under the Scheme for the purposes of determining whether that member has accrued a minimum of 10 years’ pensionable service as to qualify for the earlier payment of 1967 Scheme benefits. The Panel agrees this is a sensible and fair clarification;
  - (f) a number of the additional amendments in the draft Regulations would act solely to update existing legislation to allow for accurate administration of the Public Employees (Pension Scheme) and the Panel concluded that the draft Regulations would not place undue strain on the PEPF.

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<sup>1</sup> [Brewster \[2017\] UKSC 8](#)

10. The Panel would like to thank Connétable R.A. Buchanan of St. Ouen as Vice Chairman of SEB and attending officers for the constructive briefing provided and for alleviation of its concerns around potential fraudulent claims and financial strain on the PEPF. The Panel is therefore fully supportive and in agreement with the proposed draft regulations.

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**Statement under Standing Order 37A [Presentation of comment relating to a proposition]**

These comments were submitted to the States Greffe after the deadline set out in Standing Order 37A as last minute changes were required which resulted in a delay of Panel approval.