

STATES OF JERSEY



DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (STATES OF JERSEY PRISON SERVICE – AMENDMENTS) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 29th November 2012
by the States Employment Board**

STATES GREFFE



Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (STATES OF JERSEY PRISON SERVICE – AMENDMENTS) (JERSEY) REGULATIONS 201-

REPORT

The States Employment Board is promoting amendments to 4 sets of Regulations that regulate the different schemes which each constitute the Public Employees Contributory Retirement Scheme (the “PECRS”). These Regulations are divided into the following parts –

- Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 (the “1967 Regulations”);
- Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989 (the “General Regulations”);
- Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989 (the “Existing Members”);
- Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989 (the “New Members”).

The purpose of these amending Regulations is as follows:

To increase, at the request of the Prison Service Association, a later normal retirement age, from age 55 to age 60, for all current Prison Officers covered under Category A status.

The amendment to the normal retirement age has been drafted to preserve the various early retirement options presently available to Prison Officers under the current legislation, but allows the Officers to now remain in employment to age 60.

The amendments also introduce a new category of Prison Officer member known as “Category C” and will apply to all employees recruited as Prison Officers on or after 1st February 2013. Members under this new category will be subject to the later normal retirement age of 60 (although including an option to retire from age 55, in which case the pension will be subject to an actuarial reduction) and an accrual rate of 70ths as opposed to the current 60ths.

Financial and manpower implications

There are no manpower or resource implications for the States arising from the adoption of these draft Regulations.

These amendments will come into force on 1st February 2013.

Explanatory Note

These amending Regulations analogously amend 4 sets of Regulations that regulate the different schemes which each constitute the Public Employees Contributory Retirement Scheme (the “PECRS”). These Regulations are divided into the following Parts –

- Part 1 amends the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 (the “1967 Regulations”);
- Part 2 amends the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989 (the “General Regulations”);
- Part 3 amends the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989 (the “Existing Members Regulations”); and
- Part 4 amends the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989 (the “New Members Regulations”).

The purpose of these amending Regulations is –

- to increase the normal retiring age for States of Jersey prison officer members from age 55 to 60;
- to preserve the option for certain prison officer members to retire or take a deferred pension early from age 50 or from age 55;
- to introduce a new category of prison officer member known as a “category C” member who is recruited to the States of Jersey Prison Service (“SOJPS”) on, or after 1st February 2013. The normal retiring age for such a member will be age 60 with the option to retire from age 55 with an actuarially reduced pension; and
- to make consequential and saving provisions arising from the introduction of the new category C members, and age 60 normal retiring age in respect of existing SOJPS members.

Regulations 1, 5, and 12 are the interpretation provisions which identify the Regulations that are respectively amended under each Part of these Regulations.

Regulation 2 removes outdated references to the “Chief Officer of the Prison Service” and other references to the SOJPS and prison officers, the effect of which is that Regulation 20 of the 1967 Regulations is now only concerned with members of the Police Force and Fire Service, the Chief Officers of those Services and the Prison Governor. As a consequence of those amendments, *Regulation 3* introduces a new Regulation 20A into the 1967 Regulations the effect of which is to modify the scheme as it applies to prison officers. The normal retiring age for those officers is raised from age 55 to age 60 but for the purposes of early retirement, the option to retire from age 50 is preserved. A prison officer who becomes a deferred member of the scheme under the 1967 Regulations will, provided he or she has 10 years service, still be able to draw their deferred pension from age 55.

Regulation 4 makes minor consequential amendments to the General Regulations arising from the introduction of new Regulation 20A in the 1967 Regulations and category C members in the New Members Regulations.

Regulation 6 amends the interpretation provision in the Existing Members Regulations with the effect that normal retiring age for SOJPS members is raised from age 55 to age 60. The outdated reference to the “Chief Officer of the Prison Service” is also removed. *Regulation 13* makes analogous amendments to the New Members Regulations.

Regulation 7 amends the membership eligibility provisions in the Existing Members Regulations the effect of which is that a deferred member of the PECRS cannot, in the event of his or her re-employment with the States as a prison officer, rejoin the PECRS under the Existing Members Regulations. This rule applies regardless of whether the deferred member was a former prison officer or not. Instead, the New Members Regulations will apply and the deferred member would join the PECRS as a category C member. This is made clear in the analogous amendment to Regulation 2 of the New Members Regulations made by *Regulation 14*.

Regulation 8 modifies the normal retiring age provisions in the Existing Members Regulations the effect of which is to preserve the normal retiring age of 55 for those members employed in the SOJPS before 1st March 2009, who wish to retire between age 55 and 60. If this amendment were not made to Regulation 5, then those members would not be entitled to their pension until the new retiring age of 60, and neither would they be entitled to a pension under Regulation 6 as they would not be retiring before age 55. For the same reasons an analogous amendment is made to Regulation 5 of the New Members Regulations by virtue of *Regulation 15*.

Regulation 9 amends the provisions in the Existing Members Regulations relating to retirement before normal retiring age the effect of which is to maintain the status quo for members employed in the SOJPS before 1st March 2009. This means that those members will still be able to retire up to 5 years before normal retiring age, which for the purpose of this Regulation is age 55 instead of age 60. An analogous amendment is made to Regulation 6 of the New Members Regulations by virtue of *Regulation 16*.

Regulation 10 introduces a new Regulation 6A the purpose of which is to deal with members employed in the SOJPS on or after 1st March 2009 (“post 1st March 2009 SOJPS members”). The current position is that this particular group of members are not entitled to draw their pension before normal retiring age of 55, unlike members employed in the SOJPS before 1st March 2009 (“pre 1st March 2009 members”) who have the right to do so under Article 6. With the increase in normal retiring age to 60, and in order to maintain the status quo for the post 1st March 2009 members, the effect of Regulation 6A will enable those members to draw their pension up to 5 years before normal retiring age of 60 without any actuarial reduction. *Regulation 17* introduces an analogous new Regulation 6AA for the purposes of the New Members Regulations.

Regulation 11 makes consequential amendments to the provisions in the Existing Members Regulations dealing with deferred pensions, so as to maintain the status quo for SOJPS deferred members so that their pensions may be payable at a deemed normal retiring age of 55 instead of 60.

Regulation 13 makes amendments to the interpretation provisions of the New Members Regulations analogous to those made by *Regulation 6* but with the

introduction of the definition of a new category C member employed in the SOJPS on or after 1st February 2013.

Regulation 15 makes amendments to the normal retiring age provisions in the New Members Regulations analogous to those made by *Regulation 8*. In addition the amendments provides for a 1/70th accrual rate for the new category C prison officer members.

Regulation 16 makes amendments to the provisions in the New Members Regulations relating to retirement before normal retiring age analogous to those made by *Regulation 9* but with the following modifications: a SOJPS member first employed before 1st January 2006 (“pre 1st January 2006 member”) may draw his or her pension from age 50, that is to say, up to 5 years before deemed normal retiring age of 55, without actuarial reduction. But, for anybody first employed by the States (not necessarily in SOJPS employment) before 1st January 2006, who –

- becomes a deferred member for a period; and
- becomes employed in the SOJPS on or after 1st February 2013 as a category C member,

that member may only draw their pension up to 5 years before normal retiring age of 60 with a 2.4% actuarial reduction applied to each year by which the member’s age at the time of his or her early retirement falls short of normal retiring age of 60. The effect is that a former pre 1st January 2006 member, regardless of his or her previous membership category, who rejoins the PECS on employment with the SOJPS on or after 1st February 2013 is not eligible to draw his or her pension before age 55. Any pension drawn between age 55 and 60 is subject to an actuarial reduction.

Regulation 18 amends the provisions in the New Members Regulations relating to the payment of deferred pensions. The effect of the definition of normal retiring age meaning “55 years” in respect of a post 1st March 2009 category A SOJPS member, is that he or she will only be eligible to take a deferred pension at age 55. That member has no option to take an actuarially reduced deferred pension before age 55.

Pre 1st March 2009 SOJPS members and category C members may take a deferred pension at age 55 and 60 respectively, or take an actuarially reduced deferred pension at age 50 and 55 respectively.

The amendments contained in this Regulation also deal with the transfer of a qualifying registered overseas pension scheme (“QROPS”) applicable to category C members. The non-QROPS part of the pension as well as the QROPS part may be taken at age 55 but actuarially reduced by a neutral percentage rate. This amendment does not affect the position for category A SOJPS members which is –

- for a pre 1st March 2009 SOJPS category A member with QROPS – the non-QROPS part may be taken from age 50, but actuarially reduced, and the QROPS part may be taken from age 55, without actuarial reduction; and
- for a post 1st March 2009 SOJPS category A member with QROPS – the combination of Regulation 8(1C) and 8(1E) excludes that member from eligibility to take an actuarially reduced deferred pension before age 55. The default position therefore is that such a member may only take his or her deferred QROPS and non-QROPS pensions at age 55;

- normal retiring age for all category A SOJPS members is deemed to be age 55 by virtue of new Regulation 8(1AA).

Regulation 19 provides for the title of these Regulations and for their coming into force on 1st February 2013.



Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (STATES OF JERSEY PRISON SERVICE – AMENDMENTS) (JERSEY) REGULATIONS 201-

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DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (STATES OF JERSEY PRISON SERVICE – AMENDMENTS) (JERSEY) REGULATIONS 201-

Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967¹, have made the following Regulations –

PART 1

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

1 Interpretation

In this Part “principal Regulations” means the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967².

2 Regulation 20 amended

In Regulation 20 of the principal Regulations –

(a) for the Regulation heading, there is substituted the following heading –

“20 Members of the Police Force and Fire Service, and Prison Governor”;

(b) in paragraph (1) there are deleted the words “and the States of Jersey Prison Service”; and

(c) in paragraph (1)(b) there are deleted the words “, or the Prison Officers (Jersey) Regulations 1957”.

3 Regulation 20A inserted

After Regulation 20 of the principal Regulations there is inserted the following Regulation –

“20A Modification of scheme for prison officers

In their application to a person employed as a prison officer in the States of Jersey Prison Service, these Regulations shall have effect subject to the following modifications –

- (a) subject to paragraphs (d) and (e), the normal retiring age shall be 60 years for such a person and the definition “normal retiring age” in Regulation 1 shall be construed accordingly;
- (b) the references in Regulation 5 to the Civil Service Administration (Pension) (Jersey) Rules 1963³, shall be construed as references to the Prison Officers (Jersey) Regulations 1957⁴;
- (c) the annual rate of retirement pension shall be calculated as 1/45th of the member’s average salary for each year of service (calculated in completed years plus 1/12th of a year for each completed month in the final part-year up to the date of leaving service, or the date of attaining normal retiring age if earlier, plus any completed years of service between the date of attaining normal retiring age and the date of leaving service if later), subject to a maximum of 35 years of service, and Regulation 7(2) shall be amended accordingly;
- (d) in Regulation 7(4) “normal retiring age” means 55 years and the power of the Chief Minister under Regulation 7(4) to require a member to retire at any time not more than 5 years before attaining normal retiring age shall not be exercisable save after consultation with the Minister for Home Affairs; and
- (e) in Regulation 11 –
 - (i) the references to 50 and 60 years of age shall be amended to 45 and 50 years of age respectively, and
 - (ii) the reference to normal retiring age shall be taken to mean 55 years.”.

PART 2

AMENDMENT TO THE PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (GENERAL) (JERSEY) REGULATIONS 1989

4 Regulation 17 amended

In Regulation 17 of the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989⁵ -

- (a) after the words “(as defined in the 1989 Existing Members Regulations or the 1989 New Members Regulations)” there are inserted the words “or a

category C member (as defined in the 1989 New Members Regulations)”;
and

- (b) for the words “Regulation 17, 18, 19 or 20” there are substituted the words “Regulation 17, 18, 19, 20 or 20A”.

PART 3

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

5 Interpretation

In this Part “principal Regulations” means the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989⁶.

6 Regulation 1 amended

In Regulation 1 of the principal Regulations –

- (a) in the definition “category B member”, in paragraph (a), there are deleted the words “a Chief Officer of the States of Jersey Prison Service;”;
- (b) for the definition “normal retiring age”, there is substituted the following definition –

“ ‘normal retiring age’ means -

- (a) for category A members employed in the States of Jersey Prison Service, subject to the modifications set out in Regulations 5(2), 6(7) and 8(1A), 60 years;
- (b) for all other category A members, 55 years;
- (c) for category B members, 60 years; and
- (d) for all other members, 65 years,

provided that in the case of a Crown Officer or Magistrate who continues to hold office after the age of 65 years it shall mean the age attained on the date on which he or she ceases to hold office;”;

- (c) after the definition “session”, there is inserted the following definition -
- “ ‘SOJPS’ means the States of Jersey Prison Service;”.

7 Regulation 2 amended

In Regulation 2 of the principal Regulations –

- (a) in paragraph (12)(a), for the words “Subject to sub-paragraphs (b) and (c), a person who was” there are substituted the words “Subject to sub-paragraphs (b), (c) or (d) a person who was”; and
- (b) after paragraph (12)(c) there is added the following sub-paragraph –

-
- “(d) In the case of an employee who -
- (i) was a member of the scheme under these Regulations but ceased to be a member, and
 - (ii) becomes employed in the SOJPS,
- the employee cannot apply to be re-admitted to the scheme under these Regulations, and for the purpose of this Regulation it does not matter whether the employee was previously a category A member of the scheme under these Regulations employed in the SOJPS.”.

8 Regulation 5 amended

In Regulation 5 of the principal Regulations -

- (a) the text beginning with the words “Subject to Regulation 17” and ending with the words “the annual rate of which shall be -” shall be numbered as paragraph (1) of that Regulation; and
- (b) after paragraph (1) there is added the following paragraph –
 - “(2) In this Regulation, “normal retiring age” means in the case of a member who became, before 1st March 2009, a category A member of the scheme under these Regulations employed in the SOJPS, 55 years.”.

9 Regulation 6 amended

In Regulation 6 of the principal Regulations –

- (a) for paragraph (1) there is substituted the following paragraph –
 - “(1) Subject to paragraph (1A), this Regulation applies to any member who has completed not less than 10 years pensionable service.”;
- (b) for paragraph (1A) there is substituted the following paragraph –
 - “(1A) This Regulation does not apply to a member who became, on or after 1st March 2009, a category A member of the scheme under these Regulations.”;
- (c) after paragraph (1A) there is inserted the following paragraph –
 - “(1B) Subject to paragraph (4), a member to whom this Regulation applies may retire at any time not more than 5 years before attaining normal retiring age and receive a pension in accordance with paragraph (3).”;
- (d) in paragraph (3), for the words “paragraph (1)” there are substituted the words “paragraph (1B)”;
- (e) after paragraph (6) there is added the following paragraph –
 - “(7) In this Regulation, “normal retiring age” means in the case of –
 - (a) a Crown Officer or Magistrate, 65 years;

-
- (b) a member who became, before 1st March 2009, a category A member of the scheme under these Regulations employed in the SOJPS, 55 years.”.

10 Regulation 6A inserted

After Regulation 6 there is inserted the following Regulation -

“6A Modification of scheme – SOJPS members employed after 1st March 2009

- (1) This Regulation applies to a member who became, on or after 1st March 2009, a category A member of scheme under these Regulations employed in the SOJPS.
- (2) A member to whom this Regulation applies may retire not more than 5 years before normal retiring age and shall on retirement receive a pension calculated in accordance with Regulation 5.”.

11 Regulation 8 amended

In Regulation 8 of the principal Regulations -

- (a) in paragraph (1), for the words “Regulations 5, 6 or 7” there are substituted the words “Regulations 5, 6, 6A or 7”; and
- (b) after paragraph (1) there is inserted the following paragraph –
- “(1A) In this Regulation, “normal retiring age” means in the case of a category A member employed in the SOJPS, 55 years.”.

PART 4

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

12 Interpretation

In this Part “principal Regulations” means the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989⁷.

13 Regulation 1 amended

In Regulation 1 of the principal Regulations –

- (a) in the definition “category A member”, for the words “not being a category B member” there are substituted the words “not being a category B or category C member”;

-
- (b) in the definition “category B member”, in paragraph (a), there are deleted the words “a Chief Officer of the States of Jersey Prison Service,”;
- (c) after the definition “category B member” there is inserted the following definition –
- “ ‘category C member’ means a member employed in the States of Jersey Prison service (“SOJPS”) –
- (a) whose employment in the SOJPS first commences on or after 1st February 2013; or
- (b) who is re-admitted or admitted to the scheme in accordance with Regulation 2(14)(c);”;
- (d) for the definition “normal retiring age”, there is substituted the following definition –
- “ ‘normal retiring age’ means -
- “(a) for category A members employed in the SOJPS, subject to the modifications set out in Regulations 5(2), 6(8) and 8(1AA), 60 years;
- (b) for all other category A members, 55 years;
- (c) for category B members, 60 years;
- (d) for category C members, 60 years; and
- (e) for all other members, 65 years,
- provided that in the case of a Crown Officer or Magistrate who continues to hold office after the age of 65 years it shall mean the age attained on the date on which he or she ceases to hold office;”;
- (e) after the definition “session”, there is inserted the following definition -
- “ ‘SOJPS’ means the States of Jersey Prison Service;”.

14 Regulation 2 amended

In Regulation 2 of the principal Regulations –

- (a) in paragraph (14)(a), for the words “Subject to sub-paragraph (b)” there are substituted the words “Subject to sub-paragraph (b) or (c)”;
- (b) after paragraph (14)(b), there is added the following sub-paragraph –
- “(c) In the case of a person described in sub-paragraph (a) who on again becoming an employee, is employed in the SOJPS, he or she shall be re-admitted or admitted (as the case may be) to the scheme under these Regulations as a category C member (regardless of whether that person was previously employed as a category A member in the SOJPS), and in accordance with paragraph (15).”.

15 Regulation 5 amended

In Regulation 5 of the principal Regulations –

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- (a) the text beginning with the words “Subject to Regulation 17” and ending with the words “the annual rate of which shall be -” shall be numbered as paragraph (1) of that Regulation;
 - (b) after sub-paragraph (a), there is inserted the following sub-paragraph –
 - “(aa) in respect of a category C member, 1/70th of the member’s average salary for each completed year (and pro rata for completed days) of pensionable service provided that the member’s annual rate of pension shall not exceed 3/4ths of the member’s final pensionable salary; and”;
 - (c) after paragraph (1), there is added the following paragraph –
 - “(2) In this Regulation, “normal retiring age” means in the case of a member who became, before 1st March 2009, a category A member of the scheme under these Regulations employed in the SOJPS, 55 years.”.

16 Regulation 6 amended

In Regulation 6 of the principal Regulations –

- (a) for paragraph (5), there is substituted the following paragraph –
 - “(5) The pension payable to a member who first became an employee before 1st January 2006, but excluding such a member who is re-admitted or admitted to the scheme in accordance with Regulation 2(14)(c), shall be the amount calculated in accordance with Regulation 5.”;
- (b) for paragraph (6), there is substituted the following paragraph -
 - “(6) Subject to paragraph (7), the pension payable to -
 - (a) a member who first became an employee after 31st December 2005; or
 - (b) a member who is re-admitted or admitted to the scheme in accordance with Regulation 2(14)(c),shall be the amount calculated in accordance with Regulation 5 reduced by 2.4% for each year (and so in proportion for any part of a year) by which the member’s age at the time of his or her retirement, or termination of office or employment falls short of the age of 65 years in the case of a Crown Officer or Magistrate or, in any other case, normal retiring age.”; and
- (c) After paragraph (7), there is added the following paragraph -
 - “(8) In this Regulation, ‘normal retiring age’ means in the case of a category A member employed in the SOJPS before 1st March 2009, 55 years.”.

17 Regulation 6AA inserted

After Regulation 6A there is inserted the following Regulation -

“6AA Modification of scheme – SOJPS members employed after 1st March 2009

- (1) This Regulation applies to a member who became, on or after 1st March 2009, a category A member of scheme under these Regulations employed in the SOJPS.
- (2) A member to whom this Regulation applies may retire not more than 5 years before normal retiring age and shall on retirement receive a pension calculated in accordance with Regulation 5.”.

18 Regulation 8 amended

In Regulation 8 of the principal Regulations –

- (a) in paragraph (1)(b), after the words “Regulation 6A” there are inserted the words “, Regulation 6AA”;
- (b) in paragraph (1A)(a)(i), after the words “1st January 2006” there are inserted the words “(but excluding such a member who is re-admitted or admitted to the scheme in accordance with Regulation 2(14)(c))”;
- (c) after paragraph (1A) there is inserted the following paragraph –
“(1AA) In this Regulation, ‘normal retiring age’ means in the case of a category A member employed in the SOJPS, 55 years.”;
- (d) in paragraph (1C) -
 - (a) after the words “(1F)”, there are inserted the words “or (1I)”;
 - (b) for the words “is a category A or category B member”, there are substituted the words “is a category A, category B or category C member”;
- (e) after paragraph (1G), there are inserted the following paragraphs -
“(1H) This paragraph applies to a category C member who is entitled to a deferred pension payable in accordance with paragraph (1A)(a)(ii) where that pension is either in whole or in part attributable to a transfer value received by the Treasurer under Regulation 7 of the General Regulations from a registered pension scheme within the meaning of Part 4 of the Finance Act 2004 (c.12) of the United Kingdom.
(1I) A category C member to whom paragraph (1H) applies -
 - (a) may choose to be paid in accordance with paragraph (1C) such part of the pension that is not attributable to the transfer value described in paragraph (1H); and
 - (b) may also be paid in accordance with paragraph (1C), such part of the pension that is attributable to the transfer value.”.

19 Citation and commencement

These Regulations may be cited as the Public Employees (Contributory Retirement Scheme) (States of Jersey Prison Service – Amendments) (Jersey) Regulations 201- and shall come into force on 1st February 2013.

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- 1 *chapter 16.650*
 - 2 *chapter 16.650.48*
 - 3 *R&O.4413*
 - 4 *R&O.3863*
 - 5 *chapter 16.650.36*
 - 6 *chapter 16.650.12*
 - 7 *chapter 16.650.60*