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# **STATES OF JERSEY**



## **PUBLIC EMPLOYEES CONTRIBUTORY RETIREMENT SCHEME: TRUST STATUS**

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**Presented to the States on 27th September 2011  
by the States Employment Board**

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**STATES GREFFE**

## REPORT

The States Employment Board wishes to inform States Members of a decision of 6th September 2011 relating to the Public Employees Contributory Retirement Scheme (PECRS).

On 28th September 1999, Proposition P.143/1999 – Public Employees Contributory Retirement Scheme: proposal to establish the scheme under a trust deed and rules – was lodged *au Greffe* by the Establishment Committee of the day for debate by the States Assembly. In that Proposition, the States were asked to agree in principle that PECRS should cease to be a statutory scheme and instead should be established as a Trust and administered under a Trust Deed and Rules. The Establishment Committee was charged to prepare the necessary legislation. That Committee acted as principal employer on behalf of the States. The principal reasons advanced in P.143/1999 for the conversion from a statutory scheme to a trust were that –

1. such a move constituted “modern best practice for large pension schemes”;
2. such a move would remove the need to compete for law drafting resources in changing the provisions of the scheme from time to time and, speed up drafting changes to the scheme as the need arose and greatly improve the flexibility of its administration;
3. the Committee of Management or Trustees would be subject to the provisions of the Trusts (Jersey) Law 1984.

P.143/1999 was adopted by the States Assembly on 12th October 1999.

The Proposition expressed the intention that the scheme should be formally established as a trust “with no changes to the scheme’s commitments, operation, funding or benefits, save that these would become administered under a trust deed and rules rather than the present regulations”.

During the considerable time that has passed since that resolution and today, substantial work has been undertaken pursuant to that decision of the States Assembly. During that time, a draft Law and a trust instrument under which PECRS would cease to have a statutory status and be reconstituted as a trust was prepared. Comprehensive further legal advice was taken and advice was taken from pension specialists, the Comptroller and Auditor General and the Treasurer of the States.

During that period, it should be noted many amendments have been made to PECRS, and it is clear that notwithstanding one of the reasons advanced in support of P.143/1999, there is no difficulty in fact in making alterations to PECRS in a timely manner.

The States Employment Board has further been advised that many public sector schemes are statute-based and that so far as is not inconsistent with the instruments under which it is based, the Committee of Management are Trustees and the general law of trusts applies to PECRS.

Members will be aware of significant changes in circumstances within which pension funds are operating. For example, it is now known that the Stock Market collapse has led to significant shortfalls in funding levels for most UK pension sector schemes. Whilst we do not yet have the formal outcome of the valuation of PECRS or the Jersey Teachers' Superannuation Fund, we know that investment returns have been adversely affected by the falls in the Stock Market in 2007 and 2008 in particular.

Furthermore, a formal inquiry into the future of the UK public sector schemes is under way and this is also a significant new development. The UK inquiry does in fact give rise to potential for change to the Jersey schemes, particularly if one of our objectives is to stay close to the UK pension club requirements and thereby facilitate the transfer of health and social care staff and teaching staff between the UK and Jersey.

As a result of the further comprehensive advice that the SEB has received, the Board is now of the view that –

1. The advantages claimed for a move from a statutory-based scheme to a private trust scheme within P.143/1999 no longer apply.
2. Any move to a private trust scheme might lead, either immediately or over time, to a loss of influence by the States without any commensurate reduction in responsibility or liability in real terms.
3. The pension arrangements are an important part of the basis on which States employees are employed and that it may, in effect, even were it otherwise desirable, be impossible for the States to fail to take into account any adverse occurrences within PECRS.
4. Accordingly, it would not be desirable to make any change in the status of PECRS at this time.

In the light of all of the advice that it has received and in the current economic situation, the States Employment Board after very careful consideration has accordingly decided not to implement the States' in-principle decision of 1999 and will be doing no further work on this matter.

There are no financial or manpower implications arising from this Report.