

**DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY
RETIREMENT SCHEME) (FORMER HOSPITAL SCHEME)
(AMENDMENT No. 3) (JERSEY) REGULATIONS 199**

**Lodged au Greffe on 2nd June 1998
by the Establishment Committee**



STATES OF JERSEY

STATES GREFFE

Explanatory Note

These Regulations, which would amend the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992, have the following effect:

- (a) New provisions are introduced to enable routine payments (other than basic salary and wages, overtime and other payments of a temporary nature and payments in respect of untaken leave) to be declared to be pensionable allowances for the purpose of calculating pensions. In declaring such an allowance to be pensionable, an employer may also declare that it will entitle the employee to be credited with added years of pensionable service.

These provisions, which are contained in Regulations 1(1), 2, 3, 4, 5, 6, 7, 9, 10 and 11 of the amending Regulations, will have effect from 1st January 1996.

- (b) Retirement and widows' pensions, under the principal Regulations, are currently subject to a deduction (sometimes described as the "£390 abatement") to take account of old age pensions.

The amending Regulations abolish this deduction, effectively from 1st January 1996, and provide for the refund of deductions made from pensions since that date.

These provisions are contained in Regulations 3, 6, 7, 9 and 12 of the amending Regulations.

- (c) Under the principal Regulations, a pension may be paid in respect of a child who is over 16 but under 23 if he is receiving full time education.

The amendments enable the pension to be paid between those ages even though he is not for the time being receiving full time education, if the Committee of Management is satisfied that it is still appropriate to treat him as a child (for example, if in the course of his studies he takes a "gap" year.)

They also enable the Committee to temporarily suspend payment of his pension benefit (again, for example, during a “gap” year).

These provisions, which are contained in Regulations 1(2), 7, 8 and 9 of the amending Regulations, will come into force on 1st July 1998.

Public Employees (Retirement) (Jersey) Law 1967

PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME)
(FORMER HOSPITAL SCHEME) (AMENDMENT No. 3) (JERSEY)
REGULATIONS 1998

(Promulgated on the day of 199)

STATES OF JERSEY

The day of 199

THE STATES, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967,¹ as amended,² have made the following Regulations -

1.-(1) In paragraph (1) of Regulation 1 of the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992,³ as amended⁴ (hereinafter referred to as “the principal Regulations”) -

- (a) for the definition “average salary” there shall be substituted the following definition -

“ ‘average salary’ means final pensionable salary, calculated without reference to any pensionable allowance giving rise to added years of pensionable service under Regulation 15B;”;

- (b) after the definition “Existing Members Regulations” there shall be inserted the following definition -

¹ Recueil des Lois, Volume 1966-1967, page 528.

² Recueil des Lois, Volume 1988-1989, page 25 and Volume 1994-1995, pages 121 and 427.

³ No. 8443.

⁴ Nos. 8809 and 8887.

“ ‘final pensionable salary’ means the average of the annual salary received by a member during the three years immediately preceding the day on which he ceases to hold his employment or the day on which he attains normal retiring age, whichever is earlier;”;

- (c) after the definition “part-time” there shall be inserted the following definition -

“ ‘pensionable allowance’ means a payment or allowance which is for the time being declared under Regulation 15A to be a pensionable allowance;”;

- (d) for paragraph (e) of the definition “pensionable service” there shall be substituted the following paragraph -

“(e) any added years of pensionable service granted to a member on account of augmentation under Regulation 15 or on account of a pensionable allowance giving rise to added years under Regulation 15B; and”;

- (e) after the definition “pensioner” there shall be inserted the following definition -

“ ‘qualifying service’ means pensionable service, disregarding any added years credited to a member on account of a pensionable allowance under Regulation 15B;”;

- (f) for the definition “salary” there shall be substituted the following definition -

“ ‘salary’ means all salary, wages and other payments paid or made to a member as such for his own use. including -

(a) the money value of any accommodation and allowances in kind appertaining to his employment and assessable to income tax; and

(b) any pensionable allowances,

but not including any overtime payments or any travelling or subsistence allowances or payments made to him for the purposes of his employment or payments in respect of untaken leave;”.

(2) For clause (ii) of the proviso to the definition “child” in paragraph (1) of Regulation 1 of the principal Regulations there shall be substituted the following clause -

“(ii) a person who has attained the age of 16 years may be treated as a child for the purposes of these Regulations if he has not attained the age of 23 years, and either he is receiving full-time education in an educational establishment approved by the Committee, or he is not receiving full-time education but the Committee is satisfied that it remains appropriate to treat him as a child for the purposes of these Regulations;”.

2. For the proviso to paragraph (6) of Regulation 2 of the principal Regulations there shall be substituted the following proviso -

“Provided that -

(a) if the member returns to his duties following an absence -

(i) his pensionable service up to and after his period of absence shall be treated as continuous; and

(ii) his qualifying service up to and after his period of absence shall be treated as continuous;

- (b) if the member is absent from duty for reasons, other than maternity leave, approved by the employer, the period of absence shall not count as pensionable service or qualifying service; and
- (c) if the member is absent from duty on maternity leave approved by the employer -
 - (i) the period of absence shall count as pensionable service and qualifying service (whether or not the member returns to her duties following an absence);
 - (ii) in the event of the member giving notice that she will not return to her duties following such absence, the period of absence shall cease on the date such notice is given; and
 - (iii) the member and the employer shall continue to contribute during the period of absence on the basis of the maternity pay she receives.”.

3. For paragraph (3) of Regulation 5 of the principal Regulations there shall be substituted the following paragraph -

“(3) Subject to Regulation 18, the pension payable to a male member and the pension and lump sum payable to a female member on retirement shall be as follows -

- (a) in the case of a male member, 1/60th of his average salary for each year of pensionable service, but -
 - (i) the member’s annual rate of pension shall not, after taking into account clause (ii), exceed three-quarters of his final pensionable salary; and
 - (ii) the member’s pensionable service, disregarding any added years of pensionable service credited to a member on account of a pensionable

allowance under Regulation 15B, shall not exceed 45 years; and

- (b) in the case of a female member, $1/80$ th of her average salary for each year of pensionable service, together with a lump sum equal to $3/80$ ths of her average salary for each year of pensionable service, but -
 - (i) the member's annual rate of pension shall not, after taking into account clause (iii), exceed one-half of her final pensionable salary;
 - (ii) the member's lump sum shall not, after taking into account clause (iii), exceed one and a half times her final pensionable salary; and
 - (iii) the member's pensionable service, disregarding any added years of pensionable service credited to a member on account of a pensionable allowance under Regulation 15B, shall not exceed 40 years.”.

4. For the words “pensionable service” in Regulation 6 of the principal Regulations there shall be substituted the words “qualifying service”.

5. For the words “pensionable service” in Regulation 7 of the principal Regulations there shall be substituted the words “qualifying service”.

6.-(1) For the words “pensionable service” in paragraph (1) of Regulation 8 of the principal Regulations there shall be substituted the words “qualifying service”.

(2) In sub-paragraph (a) of paragraph (1) of Regulation 8 of the principal Regulations the words “(treating the member as if he had become entitled to receive an old age pension under the Social Security (Jersey) Law 1974)” shall be deleted.

7.-(1) For the words “pensionable service” in paragraph (2) of Regulation 9 of the principal Regulations there shall be substituted the words “qualifying service”.

(2) In paragraph (2) of Regulation 9 of the principal Regulations the words “, treating the member as if he had become entitled to receive an old age pension under the Social Security (Jersey) Law 1974” shall be deleted.

(3) For the words “pensionable service” in paragraph (3) of Regulation 9 of the principal Regulations there shall be substituted the words “qualifying service”.

(4) For the proviso to paragraph (3) of Regulation 9 of the principal Regulations there shall be substituted the following proviso -

“Provided that -

- (a) if the Committee is satisfied that a child is in the care of or is being maintained by some person or authority other than the widow or widower, the Committee may at its absolute discretion pay the pension payable under this paragraph to that other person or authority instead of to the widow or widower;
- (b) if the child is not for the time being receiving full-time education but the Committee, having considered such evidence as is provided by or on behalf of the child, is satisfied that he is expected to resume or receive full-time education in the future, the Committee may suspend payment of the child’s pension temporarily;
- (c) a decision made under sub-paragraph (b) may be varied in the light of further evidence; and
- (d) the Committee may from time to time request in respect of a child who has attained the age of 16 years further evidence regarding his full-time

education, and if such evidence is not supplied or is not in the opinion of the Committee satisfactory, the child's pension may be withheld.”.

(5) In paragraph (4) of Regulation 9 of the principal Regulations -

- (a) for the words “pensionable service” there shall be substituted the words “qualifying service”;
- (b) before the words “the annual salary” in sub-paragraph (b) there shall be substituted the words “subject to paragraph (7),”.

(6) For the words “pensionable service” in paragraph (5) of Regulation 9 of the principal Regulations there shall be substituted the words “qualifying service”.

(7) After paragraph (6) of Regulation 9 of the principal Regulations there shall be inserted the following paragraph -

“(7) If in the 12 months immediately preceding his death the member received a pensionable allowance giving rise to added years under Regulation 15B, annual salary for the purpose of paragraphs (4) and (6) shall mean the sum of -

- (a) his annual salary excluding that pensionable allowance; and
- (b) the actual amount of that pensionable allowance which he received in the 12 months immediately preceding his death,

but if the member was admitted to the scheme within 12 months of his death, the amount of the pensionable allowance to which sub-paragraph (b) refers shall be calculated as the annual equivalent of the actual amount of pensionable allowance which he received between the date when he was admitted and the date of his death.”.

8. For the proviso to paragraph (3) of Regulation 10 of the principal Regulations there shall be substituted the following proviso -

“Provided that -

- (a) if the Committee is satisfied that a child is in the care of or is being maintained by some person or authority other than the widow or widower, the Committee may at its absolute discretion pay the pension payable under this paragraph to that other person or authority instead of to the widow or widower;
- (b) if the child is not for the time being receiving full-time education but the Committee, having considered such evidence as is provided by or on behalf of the child, is satisfied that he is expected to resume or receive full-time education in the future, the Committee may suspend payment of the child’s pension temporarily;
- (c) a decision made under sub-paragraph (b) may be varied in the light of further evidence; and
- (d) the Committee may from time to time request in respect of a child who has attained the age of 16 years further evidence regarding his full-time education, and if such evidence is not supplied or is not in the opinion of the Committee satisfactory, the child’s pension may be withheld.”.

9.-(1) In sub-paragraph (a) of paragraph (2) of Regulation 11 of the principal Regulations the proviso shall be deleted.

(2) Before the words “in respect of” in sub-paragraph (b) of paragraph (2) of Regulation 11 of the principal Regulations there shall be inserted the words “subject to Regulation 15A(2),”;

(3) In sub-paragraph (b) of paragraph (2) of Regulation 11 of the principal Regulations the words “, treating the member as if he had

become entitled to receive an old age pension under the Social Security (Jersey) Law 1974" shall be deleted.

(4) For the proviso to paragraph (3) of Regulation 11 of the principal Regulations there shall be substituted the following proviso -

“Provided that -

- (a) if the Committee is satisfied that a child is in the care of or is being maintained by some person or authority other than the widow or widower, the Committee may at its absolute discretion pay the pension payable under this paragraph to that other person or authority instead of to the widow or widower;
- (b) if the child is not for the time being receiving full-time education but the Committee, having considered such evidence as is provided by or on behalf of the child, is satisfied that he is expected to resume or receive full-time education in the future, the Committee may suspend payment of the child's pension temporarily;
- (c) a decision made under sub-paragraph (b) may be varied in the light of further evidence; and
- (d) the Committee may from time to time request in respect of a child who has attained the age of 16 years further evidence regarding his full-time education, and if such evidence is not supplied or is not in the opinion of the Committee satisfactory, the child's pension may be withheld.”.

10. After Regulation 15 of the principal Regulations, there shall be inserted the following Regulations -

“PENSIONABLE ALLOWANCES.

15A.-(1) Subject to this Regulation, the employer may from time to time declare to be a pensionable allowance any payment or allowance which is routinely paid to a member in addition to his basic salary or wage, but is not -

- (a) an overtime payment or other emolument of a temporary nature; or
- (b) a payment in respect of untaken leave.

(2) A declaration may only be made with the consent of the Committee and the Establishment Committee, after the Establishment Committee has consulted the Actuary.

(3) A declaration shall -

- (a) define the payment or allowance which is being declared pensionable;
- (b) specify the date from which it is to be effective;
- (c) specify whether or not the payment or allowance gives rise to added years of pensionable service under Regulation 15B;
- (d) subject to paragraph (4), specify whether or not any such payment or allowance, received by a member or former member before the effective date of the declaration, shall count towards the computation of benefits payable under these Regulations; and
- (e) subject to paragraph (5), specify whether or not by virtue of the declaration a former member shall be entitled to additional payments in respect of benefits paid before the effective date of the declaration.

(4) If in accordance with paragraph (3)(d) the employer's declaration specifies that the pensionable allowance

received by a member or former member before the effective date of the declaration shall count towards the computation of benefits payable under these Regulations -

- (a) the Actuary shall determine and advise the Committee and the Establishment Committee of the sum total for all members and former members of the value of the additional benefits arising from the pensionable allowance paid before the effective date of the declaration, including the value of any additional payments under paragraph (3)(e) in respect of benefits;
- (b) additional employers' contributions shall be payable, and additional contributions shall also be payable by those members or former members who receive improved benefits as a result of the declaration, in such proportions as the Establishment Committee, after consulting the employer and the Committee, and having regard to the advice of the Actuary, shall decide;
- (c) the value of the additional contributions under subparagraph (b) shall be equal to the value of the additional benefits arising as determined under subparagraph (a);
- (d) the additional contributions payable under subparagraph (b) may consist of -
 - (i) a single cash payment to the scheme;
 - (ii) a series of cash payments to the scheme over a period determined by the Establishment Committee, on the advice of the Actuary, having regard to the additional benefits arising; or
 - (iii) any combination of payments described in clauses (i) and (ii) as the Establishment

Committee may determine in consultation with the employer and the Committee; and

(e) the additional contributions payable under subparagraph (b) shall be made without the need for an amendment to the Regulations.

(5) Where by virtue of the declaration -

(a) a former member is entitled to additional payments under paragraph (3)(e) in respect of benefits;

(b) one or more of the additional payments are delayed by more than one month after the dates on which they are due; and

(c) the delay is not the fault of the former member,

each additional payment which is so delayed shall be increased with interest at the Midland Bank Base Rate from the effective date of the declaration (or from the date on which it was due to be paid, if that date is later) up to and including the actual date of payment.

(6) Contributions payable by a member under Regulation 3(1) -

(a) where they are due before the effective date of the declaration of a pensionable allowance, shall be based on his salary excluding that pensionable allowance; and

(b) where they are due on or after the effective date of the declaration of a pensionable allowance, shall be based on his salary including that pensionable allowance.

(7) Subject to paragraph (8), contributions payable by employers under Regulation 4 -

- (a) where they are due before the effective date of the declaration of a pensionable allowance, shall be based on members' salaries excluding that pensionable allowance; and
- (b) where they are due on or after the effective date of the declaration of a pensionable allowance, shall be based on members' salaries including that pensionable allowance.

(8) At the first review of the Scheme carried out in accordance with Regulation 6 of the General Regulations on or after the effective date of the declaration, the Actuary shall calculate the adjustment (if any) to the employers' contribution rate which may be required from the date of the review as a result of the additional benefits arising from the pensionable allowances received by members or former members on or after the effective date of the declaration, and -

- (a) any proposals which the Establishment Committee submits to the States for disposing of the surplus, or as the case may be, for making good the deficiency, shall take into account the adjustment to the employers' contribution rate; and
- (b) if the Committee and the Establishment Committee have not agreed on proposals, or neither a surplus nor a deficiency is disclosed, the adjustment to the employers' contribution rate shall, after the further period of three months to which sub-paragraphs (c) and (e) of Regulation 6(3) of the General Regulations refer has elapsed, be applied retrospectively from the date of the review without the need for amendments to the Regulations.

(9) Subject to paragraphs (10), (11), (12) and (13), the employer may revoke a declaration of a pensionable allowance, on giving the Committee and the Establishment Committee at least six months notice of the intention to do so.

(10) Where the Committee receives notice of the intention to revoke a pensionable allowance under paragraph (9) it shall determine, in consultation with the employer and the Establishment Committee and having regard to the advice of the Actuary, a method of dealing equitably with members' past service entitlements in respect of such pensionable allowance received before the proposed date of revocation.

(11) If the pensionable allowance gives rise to added years of pensionable service under Regulation 15B, the method to which paragraph (10) of this Regulation refers may involve *inter alia* the cancellation of part or all of the added years of pensionable service credited under Regulation 15B.

(12) If the pensionable allowance does not give rise to added years of pensionable service under Regulation 15B, the method to which paragraph (10) of this Regulation refers may involve *inter alia* the provision of an appropriate number of added years of pensionable service, which shall be deemed to be added years credited under Regulation 15B for the purposes of these Regulations.

(13) The effective date of revocation of a declaration of a pensionable allowance shall be nine months after the employer gives notice, or three months after the Committee has determined the method of dealing with members' past service entitlements (whichever is later).

ADDED YEARS IN RESPECT OF PENSIONABLE ALLOWANCE

15B.-(1) In the case of a member or former member who has received a pensionable allowance giving rise to added years of pensionable service under this Regulation, the number of the added years to be credited shall be determined as follows -

- (a) if the employer has declared that the pensionable allowance received by the individual concerned before the effective date of the declaration shall

count towards the computation of benefits, the number of added years of pensionable service in respect of the period before the effective date shall be determined by the employer, with the consent of the Establishment Committee after that Committee has consulted the Committee and the Actuary;

- (b) in respect of each calendar year during which the individual concerned is a member (excluding the calendar years before the effective date of the declaration, and, if it has been revoked, excluding the calendar years after the effective date of revocation of the declaration), the number of added years of pensionable service shall be determined in accordance with the formula $\frac{A \times B}{C}$, where -
- (i) 'A' is the number of days during the year when the individual was a member (excluding any days before the effective date of the declaration and, if it has been revoked, after the effective date of its revocation);
 - (ii) 'B' is the total pensionable allowance giving rise to added years which was received by the member during the year (excluding the pensionable allowance received before the effective date of the declaration and, if it has been revoked, after the effective date of its revocation); and
 - (iii) 'C' is the total salary received by the member during the year (excluding B and excluding any salary received before the effective date of the declaration and, if it has been revoked, after the effective date of its revocation); and
- (c) at the time he ceases to be a member of the scheme, the total number of added years of pensionable service to be credited to the individual shall be the

sum of the added years determined under subparagraph (a) and the added years determined in respect of each calendar year under subparagraph (b),

but in the case of a member who was a part-time employee at any time during the year, C shall be subject to an adjustment, determined by the Actuary after consulting the employer, having regard *inter alia* to the proportion of full-time hours worked by the member.

(2) Where -

- (a) there is to be calculated under Regulation 9(2) or Regulation 11(2)(b) a pension or period of pensionable service which would have applied to an individual if he had continued in service until normal retiring age; and
- (b) the individual received, in the year immediately preceding the date he ceased to be a member of the scheme, a pensionable allowance giving rise to added years of pensionable service under this Regulation,

it shall be assumed, for the purpose of the calculation, that the number of added years of pensionable service credited under this Regulation in respect of the year immediately preceding the date on which the individual ceased to be a member of the scheme would also have been credited in respect of each year after he ceased to be a member, up to and including the date of his normal retiring age, with the credit in respect of a part year counting proportionately.”.

11. After paragraph (2) of Regulation 18 of the principal Regulations there shall be inserted the following paragraph -

“(3) Final pensionable salary shall be determined by the Actuary having regard *inter alia* to the amount of the whole-time equivalent salary for the purposes of paragraph (1).”.

12. After paragraph (6) of Regulation 19 of the principal Regulations there shall be inserted the following paragraph -

“(7) In the case of a pensioner who has been in receipt of a pension which was before 1st July 1998 subject to a deduction of £9.75 a year for each year of pensionable service, or of a widow who has been in receipt of a pension which was before 1st July 1998 subject to a deduction on the same basis -

- (a) from 1st July 1998, the deduction shall cease; and
- (b) there shall be refunded to that pensioner or widow the total of the amounts so deducted on or after 1st January 1996.”.

13.-(1) These Regulations may be cited as the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Amendment No. 3) (Jersey) Regulations 1998.

(2) Paragraph (1) of Regulation 1, Regulations 2, 3, 4 and 5, paragraph (1) of Regulation 6, paragraphs (1), (3), (5), and (7) of Regulation 7, paragraph (2) of Regulation 9, Regulation 10 and Regulation 11 shall be deemed to have come into force on the first day of January 1996.

(3) Except as provided in paragraph (2), these Regulations shall come into force on the first day of July 1998.