

STATES OF JERSEY



DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (EXISTING MEMBERS) (AMENDMENT No. 11) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 20th December 2010
by the Chief Minister**

STATES GREFFE



Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (EXISTING MEMBERS) (AMENDMENT No. 11) (JERSEY) REGULATIONS 201-

REPORT

The Chief Minister is promoting amendments to the Public Employees Pension Scheme, namely the –

- Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989
- Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989
- Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967
- Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992.

In order to receive transfer payments from pension schemes registered in the United Kingdom, the Public Employees' Contributory Retirement Scheme (PECRS) must be recognised as a Qualified Recognised Overseas Pension Scheme (QROPS) by H.M. Revenue and Customs.

In December 2006 the Scheme's actuaries advised that legislative changes in the U.K. tax regime, effective from 6th April 2006, meant eligibility for QROPS status could not be achieved unless the minimum retirement age specified in the rules of the Scheme was equal to or greater than the Normal Minimum Pension Age, which was defined by U.K. legislation as age 50 for benefits coming into payment until 5th April 2010 and age 55 after that date.

Therefore, in order to be QROPS compliant, all transfers received into PECRS after 6th April 2006, due for payment after 2010, could only be paid if the individual is aged 55 and above. This would not apply to transfers received after 6th April 2006 which would be due for payment prior to 2010.

The amendments to the legislation ensure that the part of the pension which is not attributable to a transfer value from a U.K. pension scheme is payable from the date the member retires, or from the date the member's employment is terminated. The part

of the pension which is attributable to a U.K. pension scheme is treated as a deferred pension and is payable accordingly, i.e. at age 55.

For example, an employee whose 55th birthday is after 2010 has transferred pension benefits into PECRS from a U.K. scheme since 6th April 2006. Under this scenario, they will not be able to receive benefits due to them in respect of the transferred element of their pension before their 55th birthday. However, they will be able to receive any accrued benefits under PECRS for their employment in the States of Jersey if they exercise their option to retire early before their 55th birthday. This legislation affects 2 employees who have agreed not to draw their benefits from a U.K. transfer until age 55.

Please note the legislation regarding early retirement for uniformed services was amended by legislation enacted on 1st March 2009. The amendment altered the PECRS Regulations so that all future recruits to the uniformed services on or after 1st March 2009 under Category A will have a retirement age of 55, i.e. the option to retire between age 50 and age 55 has now been removed.

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

Financial and manpower implications

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

Explanatory Note

These Regulations amend the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989 (“principal Regulations”).

Regulation 2 amends the principal Regulations in respect of certain category A members (other than category A members joining the scheme on or after 1st March 2009 to whom a pension is not payable on retiring in normal health before normal retiring age). Broadly, category A members include members employed by the States of Jersey police, fire, ambulance and prison services. The amendments apply to a category A member whose pension is wholly or partly attributable to a transfer value paid by a UK pension scheme on or after the date on which these Regulations come into force and who either (a) retires on or after that date, such date being not more than 5 years before attaining normal retiring age or (b) has his or her employment terminated on or after the date on which these Regulations come into force, such date being not more than 5 years before attaining normal retiring age and who has completed at least 10 years service. The part of the pension which is not attributable to such a transfer value is payable from the date the member retires or from the date the member’s employment is terminated. The part of the pension which is attributable to the transfer value is treated as a deferred pension and payable accordingly.

Regulation 3 makes consequential changes in respect of commutation of a pension to a lump sum. A category A member as described above may elect to commute up to a quarter of the part of the pension attributable to a transfer value or up to a quarter of the part of the pension which is not so attributable, or both. The election must be made within 6 months before the part of the pension in respect of which the election is made becomes payable.

Regulation 4 sets out the title of the Regulations and provides that they will come into force 7 days after they are made.



Jersey

**DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY
RETIREMENT SCHEME) (EXISTING MEMBERS)
(AMENDMENT No. 11) (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 –

1 Interpretation

In these Regulations “principal Regulations” mean the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989².

2 Regulation 6 amended

In Regulation 6 of the principal Regulations –

(a) in paragraph (3) after the words “Regulation 5 and” there shall be inserted the words “, except as provided by paragraph (3A),”;

(b) after paragraph (3) there shall be added the following paragraphs –

“(3A) The pension of a category A member who, on or after the date on which the Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 11) (Jersey) Regulations 201- come into force, retires or has his or her employment terminated and whose pension, either in whole or in part, is 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 on or after that date shall be payable as follows –

(a) such part of the member’s pension that is not attributable to such a transfer value shall be payable from the date of the

- member's retirement or the date the member has his or her employment terminated, as the case may be; and
- (b) such part of the pension that is attributable to such a transfer value shall –
 - (i) be payable from the date of the member's normal retiring age, and
 - (ii) be treated for the purposes of the scheme as a deferred pension to which the member is entitled under Regulation 8(1)(a).
- (3B) A member shall be treated for the purposes of the scheme as a deferred pensioner in respect of that part of the pension treated as a deferred pension under paragraph (3A)(b) except that the member shall not be permitted to waive entitlement to that deferred pension by requesting a refund of contributions or a transfer payment.”.

3 Regulation 13 amended

In Regulation 13 of the principal Regulations –

- (a) in paragraph (1) after the words “entitled to a pension under the scheme” there shall be inserted the words “, other than a member described in paragraph (1A),”;
- (b) after Regulation 13(1) of the principal Regulations there shall be inserted the following paragraphs –
 - “(1A) A member entitled to a pension payable in accordance with Regulation 6(3A) may elect to exchange up to a maximum of one-quarter of –
 - (a) that part of the member's pension which is attributable to the transfer value described in Regulation 6(3A);
 - (b) that part of his or her pension which is not so attributable; or
 - (c) each such part,for a lump sum payment.
 - (1B) An election under paragraph (1A) must be made within 6 months before the part of the pension in respect of which the election is made becomes payable.
 - (1C) When the part of the pension in respect of which an election has been made under paragraph (1A) becomes payable, for each one pound of the part of the pension exchanged the sum to be paid shall be £13.50.”.

4 Citation and commencement

These Regulations may be cited as the Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 11) (Jersey) Regulations 201- and shall come into force 7 days after they are made.

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- ¹ *chapter 16.650*
² *chapter 16.650.12*