

STATES OF JERSEY



Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (MISCELLANEOUS AMENDMENTS) (No. 2) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 3rd June 2020
by the States Employment Board**

STATES GREFFE

REPORT

1. Background

The States Employment Board, at its meeting on 1st June 2020, agreed to lodge the following draft amending Regulations. The draft amending Regulations amend the 4 sets of legislation that govern the membership and benefits in the Final Salary Scheme of the Public Employees Pension Fund (the “PEPF”).

On 1st January 2019 4,403 members of the Final Salary Scheme transferred into the Career Average Scheme, leaving 842 members in the Final Salary Scheme. As at 1st June 2020 the Final Salary Scheme only membership had reduced to 580.

The Final Salary Scheme currently has provision to allow members who opted to remain in that scheme to commute their benefits on leaving or on retirement into a one-off lump sum. The limits regarding the value of the pension that can be commuted are set out in the scheme legislation and are transposed from the Income Tax (Jersey) Law 1961 (the “Tax Law”).

Having the limits set out in the legislation means that whenever the limits in the Tax Law changes then the legislation requires separate amendments to match the Tax Law.

The amendments set out below amend the Final Salary Scheme legislation so as to create a link between the legislation and the Tax Law, meaning that no further amendments will be required in the event the limits set out in the Tax Law change.

There is one further amendment made by the Legislative Drafting Office which tidies up the Regulation and has not consequential effect on the provisions set out in the Regulation.

2. Draft amending legislation

Detailed below are the draft amending Regulations which are to amend the 4 sets of legislation that provide benefits solely under the Final Salary Scheme of the PEPF. These Regulations are relevant only to members who opted to remain in the Final Salary Scheme of the PEPF from 1st January 2019.

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

This amendment links the JTSF Existing Members Order to Article 131CE of the Tax Law. Article 131CE sets the limits for converting the total value of pension benefits into a lump sum. This will mean that the Order will not need to be updated when the limits in the Tax Law changes.

3. Draft Public Employees (Contributory Retirement Scheme) (Miscellaneous Amendments) (No. 2) (Jersey) Regulations 201-

Regulation 1 – Amendment of the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989

“Regulation 16 exchange of small pension”

This amendment links the PECRS Existing Members Regulations to Article 131CE of the Tax Law. Article 131CE sets the limits for converting the total value of pension benefits into a lump sum. This will mean that the Regulations will not need to be updated when the limits in the Tax Law change.

This amendment removes Regulation 16A which has been incorporated into Regulation 16.

Regulation 2 – Amendment of the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992

“Regulation 14 exchange of small pension”

This amendment links the PECRS Former Hospital Scheme Regulations to Article 131CE of the Tax Law. Article 131CE sets the limits for converting the total value of pension benefits into a lump sum. This will mean that the Regulations will not need to be updated when the limits in the Tax Law change.

Regulation 3 – Amendment of the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967

“Regulation 11A exchange of small pension”

This amendment links the PECRS 1967 Regulations to Article 131CE of the Tax Law. Article 131CE sets the limits for converting the total value of pension benefits into a lump sum. This will mean that the Regulations will not require updating when the limits in the Tax Law change.

Regulation 4 – Amendment of the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989

The Legislative Drafting Office recommended an amendment to Regulation 6 in order to tidy up the Regulation. There has been no fundamental change to the provision in the Regulation, the amendment has been made in order to make the Regulation more understandable.

“Regulation 16 exchange of trivial pension for lump sum”

This amendment links the PECRS New Members Regulations to Article 131CE of the Tax Law. Article 131CE sets the limits for converting the total value of pension benefits into a lump sum. This will mean that the Regulations will not need to be updated when the limits in the Tax Law change.

4. Financial and manpower implications

The draft Regulations have no financial or manpower implications for the Government of Jersey and are not expected to create additional liabilities in the Public Employees Pension Fund.

EXPLANATORY NOTE

The Public Employees (Contributory Retirement Scheme) (Miscellaneous Amendments) (No. 2) (Jersey) Regulations 202-, if passed, would amend the 4 sets of Regulations which underpin the Public Employees Contributory Retirement Scheme (the “PECRS”) so that the maximum amount of any small pension accrued in the PECRS which may be exchanged in favour of a tax free lump sum, is automatically pegged to the amounts specified in Article 131CE (permitted commutation – trivial pension) the Income Tax (Jersey) Law 1961 (the “Income Tax Law”).

Regulations 1 to 4 respectively amend the analogous provisions of the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989, the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992, the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967, and the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989 (the “PECRS Regulations”) which, subject to the fulfilment of certain conditions set out in Article 131CE of the Income Tax Law, provide for the exchange of a small pension pot accrued in the PECRS not exceeding the value of £35,000 or £19,000 (as the case may be) for a tax free lump sum. Those are the amounts currently specified in the Income Tax Law. Certain words and phrases used in the Income Tax Law are to be read as if the analogous words and phrases used in the PECRS Regulations were used in that Law. A minor housekeeping amendment is also made by *Regulations 1, 2 and 4* in relation to pensionable allowances.

Regulation 4 also makes a housekeeping amendment to Regulation 6 (pensions payable before normal retiring age to members with 10 years’ pensionable service) of the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989 so as to restructure the provision to make it clearer.

Regulation 5 provides for the title by which these Regulations may be cited and for them to come into force 7 days after they are made.



Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (MISCELLANEOUS AMENDMENTS) (No. 2) (JERSEY) REGULATIONS 202-

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Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (MISCELLANEOUS AMENDMENTS) (No. 2) (JERSEY) REGULATIONS 202-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES make these Regulations under Article 2 of the Public Employees (Retirement) (Jersey) Law 1967¹ –

1 Amendment of the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989

- (1) The Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989² are amended in accordance with this Regulation.
- (2) For Regulation 16 (conversion of pension into lump sum not exceeding £30,000) there is substituted –

“16 Exchange of small pension for lump sum

- (1) In accordance with Article 131CE (permitted commutation – trivial pension) of the Income Tax Law and this Regulation, a member or deferred pensioner is permitted to elect to exchange the whole of the capital value of his or her pension accrued under the scheme for a lump sum not exceeding such amounts as are specified in Article 131CE of that Law.
- (2) For the purposes of this Regulation, Article 131CE of the Income Tax Law is to be read as if for the words and phrases set out in column 1 of the following table there were substituted the words and phrases set out in column 2 of the table –

| 1 – Words and phrases used in Article 131CE of the Income Tax Law | 2 – Substituted words and phrases for the purposes of these Regulations |
|--|---|
| “An approved Jersey scheme” | “The pension scheme established by the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 ³ (the “scheme”)” |
| “commute” | “exchange” |
| “pension holder” | “member or deferred pensioner of the scheme” |
| “fund value” | “capital value of the member’s or deferred pensioner’s pension accrued under the scheme”. |

- (3) An exchange under paragraph (1) is not permitted where the capital value of the member’s or deferred pensioner’s pension accrued under the scheme, includes any amount transferred from another scheme, trust or contract (however called and whether approved under any Article of the Income Tax Law or under the jurisdiction of a country or territory outside Jersey).
- (4) An election under paragraph (1) must be made in such form and manner as the Administrator specifies.
- (5) The calculation of the lump sum payable under this Regulation is to be determined by the Committee after consulting the Actuary.
- (6) Payment of the lump sum –
- (a) must in the case of –
 - (i) a member, be made on the day after the member ceases employment, or
 - (ii) a deferred pensioner, be made not later than 3 months after the date of the election under paragraph (1);
 - (b) extinguishes the member’s or deferred pensioner’s rights to any other benefits under the scheme, as well as the rights of any person contingently entitled to any benefit payable upon that member’s or deferred pensioner’s death.”.
- (3) Regulation 16A (conversion of pension into lump sum not exceeding £18,000) is deleted.
- (4) For Regulation 18(13) (pensionable allowances) there is substituted –
- “(13) The revocation of a pensionable allowance declaration takes effect upon the expiry of the notice given by the employer under paragraph (9).”.

2 Amendment of the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992

- (1) The Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992⁴ are amended in accordance with this Regulation.

- (2) For Regulation 14 (conversion of pension into lump sum not exceeding £30,000) there is substituted –

“14 Exchange of small pension for lump sum

- (1) In accordance with Article 131CE (permitted commutation – trivial pension) of the Income Tax Law and this Regulation, a member or deferred pensioner is permitted to elect to exchange the whole of the capital value of his or her pension accrued under the scheme for a lump sum not exceeding such amounts as are specified in Article 131CE of that Law.
- (2) For the purposes of this Regulation, Article 131CE of the Income Tax Law is to be read as if for the words and phrases set out in column 1 of the following table there were substituted the words and phrases set out in column 2 of the table –

| 1 – Words and phrases used in Article 131CE of the Income Tax Law | 2 – Substituted words and phrases for the purposes of these Regulations |
|--|---|
| “An approved Jersey scheme” | “The pension scheme established by the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 ⁵ (the “scheme”)” |
| “commute” | “exchange” |
| “pension holder” | “member or deferred pensioner of the scheme” |
| “fund value” | “capital value of the member’s or deferred pensioner’s pension accrued under the scheme”. |

- (3) An exchange under paragraph (1) is not permitted where the capital value of the member’s or deferred pensioner’s pension accrued under the scheme, includes any amount transferred from another scheme, trust or contract (however called and whether approved under any Article of the Income Tax Law or under the jurisdiction of a country or territory outside Jersey).
- (4) An election under paragraph (1) must be made in such form and manner as the Administrator specifies.
- (5) The calculation of the lump sum payable under this Regulation is to be determined by the Committee after consulting the Actuary.
- (6) Payment of the lump sum –
- (a) must in the case of –
 - (i) a member, be made on the day after the member ceases employment, or
 - (ii) a deferred pensioner, be made not later than 3 months after the date of the election under paragraph (1);
 - (b) extinguishes the member’s or deferred pensioner’s rights to any other benefits under the scheme, as well as the rights of

any person contingently entitled to any benefit payable upon that member's or deferred pensioner's death.”.

- (3) For Regulation 16(13) (pensionable allowances) there is substituted –
- “(13) The revocation of a pensionable allowance declaration takes effect upon the expiry of the notice given by the employer under paragraph (9).”.

3 Amendment of the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967

For Regulation 11A (conversion of pension into lump sum not exceeding £30,000) of the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967⁶ there is substituted –

“11A Exchange of trivial pension for lump sum

- (1) In accordance with Article 131CE (permitted commutation – trivial pension) of the Income Tax Law and this Regulation, a contributory member entitled to a retirement pension under Regulation 7 (“contributory member”), or a member entitled to a deferred pension under Regulation 11 (“deferred pension member”) is permitted to elect to exchange the whole of the capital value of his or her pension accrued under the scheme for a lump sum not exceeding such amounts as are specified in Article 131CE of that Law.
- (2) For the purposes of this Regulation, Article 131CE of the Income Tax Law is to be read as if for the words and phrases set out in column 1 of the following table there were substituted the words and phrases set out in column 2 of the table –

| 1 – Words and phrases used in Article 131CE of the Income Tax Law | 2 – Substituted word and phrases for the purposes of these Regulations |
|---|---|
| “An approved Jersey scheme” | “The pension scheme established by the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 ⁷ (the “scheme”)” |
| “commute” | “exchange” |
| “pension holder” | “contributory member or deferred pension member of the scheme” |
| “fund value” | “capital value of the contributory member's or deferred pension member's pension accrued under the scheme”. |

- (3) An exchange under paragraph (1) is not permitted where the capital value of the contributory member's or deferred pension member's pension accrued under the scheme, includes any amount transferred from another scheme, trust or contract (however called

and whether approved under any Article of the Income Tax Law or under the jurisdiction of a country or territory outside Jersey).

- (4) An election under paragraph (1) must be made in such form and manner as the Administrator specifies.
- (5) The calculation of the lump sum payable under this Regulation is to be determined by the Committee after consulting the Actuary.
- (6) Payment of the lump sum –
 - (a) must in the case of –
 - (i) a contributory member, be made on the day after the member ceases employment, or
 - (ii) a deferred pension member, be made not later than 3 months after the date of the election under paragraph (1);
 - (b) extinguishes the contributory member's or deferred pension member's rights to any other benefits under the scheme, as well as the rights of any person contingently entitled to any benefit payable upon that member's death."

4 Amendment of the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989

- (1) The Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989⁸ are amended in accordance with this Regulation.
- (2) In Regulation 6 (pensions payable before normal retiring age to members with 10 years' pensionable service) –
 - (a) for paragraphs (1), (1A) and (2) there is substituted –
 - "(1) Subject to paragraph (2), this Regulation applies to a member who has completed a minimum of 10 years' pensionable service and who –
 - (a) in the case of a Crown Officer or the Magistrate, retires or has his or her appointment terminated at any time after attaining the age of 60 up to (but not including) the age of 65; or
 - (b) in any other case, retires or has his or her employment terminated at any time not more than 5 years before attaining normal retiring age.
 - (2) 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.";
 - (b) in paragraphs (6) and (7) for "or Magistrate" there is substituted "or the Magistrate".
- (3) For Regulation 16 (conversion of pension into lump sum not exceeding £30,000) there is substituted –

“16 Exchange of trivial pension for lump sum

- (1) In accordance with Article 131CE (permitted commutation – trivial pension) of the Income Tax Law and this Regulation, a member or deferred pensioner is permitted to elect to exchange the whole of the capital value of his or her pension accrued under the scheme for a lump sum not exceeding such amounts as are specified in Article 131CE of that Law.
- (2) For the purposes of this Regulation, Article 131CE of the Income Tax Law is to be read as if for the words and phrases set out in column 1 of the following table there were substituted the words and phrases set out in column 2 of the table –

| 1 – Words and phrases used in Article 131CE of the Income Tax Law | 2 – Substituted words and phrases for the purposes of these Regulations |
|--|---|
| “An approved Jersey scheme” | “The pension scheme established by the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 ⁹ (the “scheme”)” |
| “commute” | “exchange” |
| “pension holder” | “member or deferred pensioner of the scheme” |
| “fund value” | “capital value of the member’s or deferred pensioner’s pension accrued under the scheme”. |

- (3) An exchange under paragraph (1) is not permitted where the capital value of the member’s or deferred pensioner’s pension accrued under the scheme, includes any amount transferred from another scheme, trust or contract (however called and whether approved under any Article of the Income Tax Law or under the jurisdiction of a country or territory outside Jersey).
- (4) An election under paragraph (1) must be made in such form and manner as the Administrator specifies.
- (5) The calculation of the lump sum payable under this Regulation is to be determined by the Committee after consulting the Actuary.
- (6) Payment of the lump sum –
 - (a) must in the case of –
 - (i) a member, be made on the day after the member ceases employment, or
 - (ii) a deferred pensioner, be made not later than 3 months after the date of the election under paragraph (1);
 - (b) extinguishes the member’s or deferred pensioner’s rights to any other benefits under the scheme, as well as the rights of any person contingently entitled to any benefit payable upon that member’s or deferred pensioner’s death.”.

- (4) Regulation 16A (conversion of pension into lump sum not exceeding £18,000) is deleted.
- (5) For Regulation 18(13) (pensionable allowances) there is substituted –
“(13) The revocation of a pensionable allowance declaration takes effect upon the expiry of the notice given by the employer under paragraph (9).”.

5 Citation and commencement

These Regulations may be cited as the Public Employees (Contributory Retirement Scheme) (Miscellaneous Amendments) (No. 2) (Jersey) Regulations 202- and come into force 7 days after the day on which they are made.

ENDNOTES

Table of Endnote References

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| <i>1</i> | <i>chapter 16.650</i> |
| <i>2</i> | <i>chapter 16.650.12</i> |
| <i>3</i> | <i>chapter 16.650.48</i> |
| <i>4</i> | <i>chapter 16.650.24</i> |
| <i>5</i> | <i>chapter 16.650.48</i> |
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