

STATES OF JERSEY

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DRAFT PUBLIC EMPLOYEES (RETIREMENT) (AMENDMENT No. 6) (JERSEY) LAW 200

Lodged au Greffe on 26th September 2006
by the Chief Minister

STATES GREFFE



Jersey

DRAFT PUBLIC EMPLOYEES (RETIREMENT) (AMENDMENT No. 6)(JERSEY) LAW 200

European Convention on Human Rights

The Chief Minister has made the following statement –

In the view of the Chief Minister the provisions of the Draft Public Employees (Retirement) (Amendment No. 6, (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator F.H. Walker**

REPORT

The States Employment Board is promoting an amendment to the Public Employees (Retirement) (Jersey) Law 1967. This is very largely an enabling piece of legislation under which Article 2 of that Law provides that the States must establish a Scheme by Regulations to provide for the payment of pensions and other benefits to persons who retire from employment with the States, their spouses, children and dependants.

Article 4 of the Law relates to the extension of the Scheme to employees in the employment of persons who are not the States. There are a number of such admitted groups of employees, including employees at the Jersey Financial Services Commission, Jersey Telecom and Jersey Post.

When such employers are granted Admitted Body status within PECRS a Terms of Admission document is issued documenting employer obligations and their fiduciary responsibilities.

A proposed new Regulation 9(1)(d) of the Public Employees Contributory Retirement Scheme (PECRS) is intended to ensure that the terms of an Admission Document do in effect contain statutory duties on the part of the Chief Minister, the Committee of Management of the PECRS, the actuary or the employer to whom the admission document applies.

However, advice from the Attorney General is that in order for Regulation 9(1)(d) and in turn the Admission Document to become effective, the amendments described in the Explanatory Note to this draft Law need to be made to Article 4 of the Public Employees (Retirement) (Jersey) Law 1967.

There are no financial or manpower implications arising from this draft Law.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 22nd September 2006 the Chief Minister made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Chief Minister the provisions of the Draft Public Employees (Retirement) (Amendment No. 6, (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

This draft Law would amend Article 4 of the Public Employees (Retirement) (Jersey) Law 1967.

That Article enables the States to make Regulations empowering the Chief Minister, on the application of an employer who satisfies the Chief Minister that it is appropriate to do so, to admit the staff of the employer to participation in the pension scheme established under the principal Law.

It empowers the Chief Minister to do so on terms and conditions. At present, these must be specified in the Regulations themselves.

The effect of the amendment is to widen Article 4 in the following ways –

- (a) The opportunity is taken to refer explicitly in that Article of the Law to the participation of the employer in the scheme.
- (b) Instead of setting out terms and conditions of participation directly, the Regulations could prescribe a manner in which they would be determined. In particular, the Regulations could refer to and adopt terms and conditions set out in some other document.
- (c) In respect of the participation of the employer and employees in the scheme, the Regulations could impose additional obligations on the Chief Minister and the employer, on the Committee of Management and actuary of the scheme and on the States Employment Board. Again, the Regulations could do so either directly or by prescribing - by reference to another document, or otherwise - the manner in which those obligations would be imposed.

The amending Law would come into force seven days after being registered in the Royal Court.



Jersey

DRAFT PUBLIC EMPLOYEES (RETIREMENT) (AMENDMENT No. 6)(JERSEY) LAW 200

A LAW to amend further the Public Employees (Retirement) (Jersey) Law 1967.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Article 4 of the principal Law replaced

For Article 4 of the Public Employees (Retirement) (Jersey) Law 1967^[1] there shall be substituted the following Article –

“4 Power to extend application of scheme

- (1) The States may make Regulations empowering the Minister, on the application of an employer who satisfies the Minister that it is appropriate to do so, to admit –
 - (a) the employer; and
 - (b) persons in the employment of that employer, to participate in the scheme.
- (2) The Regulations may –
 - (a) specify terms and conditions on which the employer and the employees respectively may participate in the scheme, or specify any other manner in which such terms and conditions shall be determined; and
 - (b) impose additional obligations on any person specified in paragraph (4), or specify any other manner in which such additional obligations shall be imposed on any such person.
- (3) In specifying a manner in which terms and conditions shall be determined or additional obligations shall be imposed, the Regulations may refer to and adopt terms that are set out in a document other than the Regulations.
- (4) The persons to whom paragraph (2)(b) refers are the Minister, the employer, the Committee of Management, the actuary appointed under Article 3(2) and the States Employment Board.
- (5) For the purposes of this Article, it is immaterial whether at the time when the

Regulations are made an additional obligation to which this Article refers already exists otherwise than under or by virtue of this Law.”.

2 Citation and commencement

- (1) This Law may be cited as the Public Employees (Retirement) (Amendment No. 6) (Jersey) Law 200.
- (2) This Law shall come into force on the seventh day after its registration.

