

STATES OF JERSEY



Jersey

DRAFT PUBLIC EMPLOYEES (PENSION 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 Regulations. The Public Employees (Pension Scheme) legislation was adopted by the States in November 2015. Prior to lodging, this legislation was reviewed by the Scheme Actuary, the Law Officers' Department and Treasury Officers. All parties agreed the Regulations for lodging but it was highlighted that once in operation improved areas of drafting may become evident. The updates to the Regulations contained in this report represent the drafting improvements that have been identified

The Career Average Scheme of the Public Employees Pension Fund (the "PEPF") was implemented on 1st January 2016. New public service employees, with the exception of teachers, employed since 1st January 2016 have been admitted to the Career Average Scheme. 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 Public Employees (Pension Scheme) legislation, which introduced these arrangements, were adopted by the States in November 2015. Prior to lodging, the draft legislation was reviewed by the Scheme Actuary, the Law Officers' Department and Treasury Officers. All parties agreed the Regulations for lodging but it was highlighted that once in operation improved areas of drafting may become evident.

Since the inception of the original legislation in 2015 a number of minor technical changes to the Regulations have been identified which will improve clarity and aid in the administration of the pension benefits in the PEPF.

Further, it is necessary to amend the Regulations for both the PEPF to make the legislation consistent with recent changes to the Income Tax (Jersey) Law 1961 (the Tax Law). These changes are also outlined in this paper.

2. Draft amending legislation

Detailed below are the draft amending Regulations which are to amend the 3 sets of legislation that provide benefits to members solely under the Career Average Scheme and members who transitioned from the Final Salary Scheme to the Career Average Scheme on 1st January 2019.

- Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015
- Public Employees (Pension Scheme) (Funding and Valuation) (Jersey) Regulations 2015
- Public Employees (Pension Scheme) (Transitional Provisions, Savings and Consequential Amendments) (Jersey) Regulations 2015.

3. Draft Public Employees (Pension Scheme) (Miscellaneous Amendments) (No. 2) (Jersey) Regulations 202-

Throughout this set of amendment Regulations, the term 1st Commencement Date has been amended to 1st January 2016 and the term 2nd Commencement Date has been

amended to 1st January 2019. This amendment has been made to provide greater clarity on when certain provisions are to be used.

PART 1 – Amendment of the Public Employees (Pension Scheme) (Funding and Valuation) (Jersey) Regulations 2015

Regulation 2 – Regulation 1 (Interpretation) amended

The word “nominated” has been removed from the definition of “nominated co-habiting partner” in line with amendment to Regulation 16 of the Membership and Benefit Regulations at point 3.9 below.

An amendment is also required to clarify the understanding of the term “prudent assumptions”. The amendment will define prudent assumptions as a set of actuarial assumptions that, when taken all together, is more likely to overestimate than underestimate the amount of money actually required to meet the costs of funding the liabilities of the Scheme.

Regulation 3 and Regulation 4

The term 1st Commencement Date has been amended to 1st January 2016 and the term 2nd Commencement Date has been amended to 1st January 2019.

Regulation 5 – Regulation 8 (Annual increases in pension) amended

An amendment to ensure that the first pension increase is prorated where a member has taken payment of, or left and deferred, their pension part way through a year.

Regulation 6 to Regulation 13

The term 1st Commencement Date has been amended to 1st January 2016 and the term 2nd Commencement Date has been amended to 1st January 2019.

Regulation 14 – Schedule 5 (Re-Payment of Pre-1988 Liability) amended

The first amendment is to subparagraph (4)(b) and is to clarify that the calculation of the Pre-1988 Liability, up to 31st December 2018, the calculation was based only on pensionable earnings of members in the Final Salary Scheme

The second amendment would be to add a provision to ensure that from 1st January 2019 the calculation of the Pre-1988 Liability would be based on members of the Career Average Scheme as well as the Final Salary Scheme. This enables the increase to the Pre-1988 Liability to continue to be calculated by reference to the earnings growth of all scheme members, not just those remaining in the Final Salary Scheme.

PART 2 – Amendment of the Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015

Regulation 15 – Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015 amended

Sets out referencing of what legislation is being amended

Regulation 16 – Regulation 1 (interpretation) amended

The word “nominated” has been removed from the definition of “nominated co-habiting partner” in line with amendment Regulation 16 below. This has also led to other small amendments in the Interpretation Regulation.

Regulation 17 – Regulation 3 (meaning of “nominated cohabiting partner”) amended

The proposed amendment is to remove the requirement in legislation to complete a nomination form in order for a co-habiting partner to receive survivor benefits. This

amendment follows a Supreme Court ruling in UK which disapplied the requirement for a form to be complete, prior to death of a member, in order for a co-habiting partner to receive benefit (See [Brewster \[2017\] UKSC 8](#)).

Regulation 18 – Regulation 6 (Pensionable Allowances) amended

The aim of this amendment is to clarify the date on which a revocation of a pensionable allowance takes place.

Regulation 19 – Regulation 15 (Additional Voluntary Contributions) amended

This amendment removes a paragraph which incorrectly refers to limits on the payment of pension contributions under Article 131I of the Tax Law.

Regulation 20 – Regulation 20 (management of pension records) amended

The term 1st Commencement Date has been amended to 1st January 2016 and the term 2nd Commencement Date has been amended to 1st January 2019.

Regulation 21 – Regulation 21 (Active Member Pension Record) amended

The first amendment ensures that on the death of a member the calculation of the survivor benefits takes into account the opening balance of the member's pension record in the year in which they died.

The second amendment corrects the calculation of a members benefit by using the amount of accrued pension attributed to a pension adjustment and not the sum of all pension adjustments.

Regulation 22 – Regulation 34 (conversion of retirement benefits into lump sum not exceeding £30,000) substituted

This amendment links the PEPF legislation 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 23 – Regulation 35 (conversion of retirement benefits into lump sum not exceeding £18,000) deleted

This Regulation has been deleted as it has been incorporated in to Regulation 34

Regulation 24 – Regulation 43 (Death in Scheme Employment – Lump sum benefit)

This amendment adds Mother and Father to the definition of relatives and clarifies that they are entitled to receipt of death in service lump sum benefits.

Regulation 25 – Regulation 49 (bankruptcy and non-assignment of Scheme benefits) amended

This Regulation has been amended due to removal of the requirement for completing a nomination form under Regulation 16 (see 3.9 above).

Regulation 26 – Schedule 2 (forfeiture of scheme benefits) amended

This amendment ensure that any pensionable benefits that have been forfeited as a result of this schedule are correctly paid to the employer or in to the Fund.

PART 3 – Amendment of the Public Employees (Pension Scheme) (Transitional Provisions, Savings and Consequential Amendments) (Jersey) Regulations 2015

Regulation 27 – Public Employees (Pension Scheme) (Transitional Provisions, Savings and Consequential Amendments) (Jersey) Regulations 2015 amended

Sets out referencing of what legislation is being amended.

Regulation 28 to Regulation 32

The term 1st Commencement Date has been amended to 1st January 2016 and the term 2nd Commencement Date has been amended to 1st January 2019.

Regulation 33 – Regulation 10 (Survivor Benefits) amended

This amendment ensures that where a Transition member marries, enters a civil partnership or cohabiting partnership on or after they reach their Final Salary Scheme normal retiring age, the surviving partner would be entitled to a pension from the Final Salary Scheme in the event the member dies.

Regulation 34 – Regulation 11 (extension of 1967 Scheme survivor benefits to nominated cohabiting partner) amended

This Regulation has been amended due to removal of the requirement for completing a nomination form under Regulation 16 (see 3.9 above).

Regulation 35 – Regulation 13 (Ill-health pension – 1967 Scheme)

This amendment ensures that a member who retired on grounds of ill health from the Final Salary Scheme and subsequently returns to work in the Public Sector on or after 1st January 2019, has their pensionable service in the Final Salary Scheme treated as if they were a transition member. This will allow their pensionable service in the Final Salary Scheme to be linked to their salary in the best 365 successive days in the 10 years prior to leaving or retirement. On returning to work in the Public Sector the ill health pension ceases to be paid.

Regulation 36 – Regulation 13A inserted

This amendment will allow a member, who has been certified by an occupation health advisor that they have less than 12 months to live, to convert their Final Salary Scheme benefits in to a Terminal Illness Lump Sum. The lump sum will be calculated in the same way as Regulation 33 (Conversion of retirement benefits into lump sum – terminal illness) of the Membership and Benefits Regulations.

Regulation 37 – Regulation 14A inserted

This amendment will allow a uniformed transition member to use their pensionable service in the Final Salary Scheme and the Career Average Scheme to determine their 10 year requirement for retiring early. Under the current provisions it only allows the use of the Final Salary Scheme service and if the member did not have 10 years prior to transitioning into the Career Average scheme, they could not retire early.

Regulations 38 to 41

The term 1st Commencement Date has been amended to 1st January 2016 and the term 2nd Commencement Date has been amended to 1st January 2019.

Regulation 42 – Citation and Commencement

Sets out the name of the legislation and when it is to come into force.

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 (Pension Scheme) (Miscellaneous Amendments) (No. 2) (Jersey) Regulations 202-, if passed, would make miscellaneous updating and housekeeping amendments to 3 sets of Public Employees Pension Scheme Regulations (the “PEPS Regulations” and “Scheme”).

Part 1 of these Regulations amends the Public Employees (Pension Scheme) (Funding and Valuation) (Jersey) Regulations 2015 (the “Funding and Valuation Regulations”).

Regulation 2 amends various definitions contained in Regulation 1 of the Funding and Valuation Regulations. In particular, the definition “nominated cohabiting partner” is deleted (as to which, see further *Regulation 17*) and the definition “prudent assumptions” is clarified.

Regulations 3 and *4* are housekeeping amendments (“date amendments”) in relation to the commencement of the PEPS Regulations, to replace references to the “the 2nd commencement date” with the actual date which was 1st January 2019.

Regulation 5 is an amendment which provides for annual pension increases payable in respect of members of the 1967 Public Employees Contributory Retirement Scheme (the “1967 Scheme”) whose pension benefits come into payment in the year before the year in which the pension increases are applied, so that such increases are applied on a pro-rata basis for each day of benefits paid under the 1967 Scheme.

Regulation 6 is a date amendment replacing a reference to “the 1st commencement date” with 1st January 2016 and *Regulations 7, 8, 9, 11* and *12* are date amendments in respect of 1st January 2019. *Regulation 13* makes date amendments in respect of both 1st January 2016 and 1st January 2019 commencement dates, and *Regulation 14* makes date amendments in respect of 1st January 2016 and an amendment in relation to the re-payment of the pre-1988 debt to clarify that the average percentage increase in the pensionable earnings of members of the Scheme are also included in the calculation of the debt repayment amount.

Part 2 of these Regulations amends the Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015 (the “Membership and Benefits Regulations”).

Regulation 15 introduces *Part 2*.

Regulation 16 makes some minor consequential amendments arising from the definition of “cohabiting partner” as substituted by *Regulation 17*.

Regulation 17 removes the current requirement for a member of the Scheme to nominate a cohabiting partner to receive a survivor pension (as defined in Regulation 1 of the Membership and Benefits Regulations) and make a declaration that he or she has been cohabiting with that person for at least 2 years. The definition of what constitutes a “cohabiting partner” remains the same but that person would be required to produce evidence that he or she was the member’s cohabiting partner for a continuous period of 2 years up to the date of the member’s death.

Regulation 18 has the effect of pegging the date that a pensionable allowance declaration is revoked, with the expiry date of the notice period (at least 6 months) given by the member’s employer in respect of that declaration. Currently, a pensionable allowance declaration cannot be revoked until 6 months after the date that the notice period has expired.

Regulation 19 removes an otiose reference to a provision of the Income Tax (Jersey) Law 1961 (the “Income Tax Law”).

Regulation 20 is a minor consequential amendment arising from the deletion of a Regulation under *Regulation 23*.

Regulation 21 makes some clarifying amendments with respect to the calculation of the final closing balance for the pension record of a former “active member” of the Scheme (as defined in Regulation 1 of the Membership and Benefits Regulations).

Regulation 22 substitutes Regulation 34 (conversion of retirement benefits into lump sum not exceeding £30,000) of the Membership and Benefits Regulations to provide, subject to the fulfilment of certain conditions set out in Article 131CE (permitted commutation – trivial pension) of the Income Tax Law, for the exchange of a small pension pot accrued in the Scheme 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 Membership and Benefits Regulations were used in that Law.

Regulation 23 deletes Regulation 35 (conversion of retirement benefits into lump sum not exceeding £18,000) of the Membership and Benefits Regulations because that provision is now subsumed within Regulation 34 of those Regulations as substituted by *Regulation 22*.

Regulation 24 adds a parent to the list of persons who may be nominated by an active member of the Scheme to receive a lump sum in the event that the member dies prematurely before retiring from employment.

Regulation 25 is a consequential amendment arising from the new definition of “cohabiting partner” substituted by *Regulation 17*.

Regulation 26 is a corrective amendment to clarify that forfeited pension benefits would only be paid to the member’s employer if that employer had suffered a monetary loss as a result of a criminal act by the member in question.

Part 3 of these Regulations amends the Public Employees (Pension Scheme) (Transitional Provisions, Savings and Consequential Amendments) (Jersey) Regulations 2015 (the “Transitional Regulations”).

Regulation 27 introduces *Part 3*.

Regulation 28 amends various definitions as a consequence of the amendments made by *Part 3* of these Regulations.

Regulations 29, 30 and 31 are date amendments in respect of 1st January 2019.

Regulation 32 makes date amendments in respect of both 1st January 2016 and 1st January 2019.

Regulation 33 amends Regulation 10 (survivor benefits) of the Transitional Regulations so as to clarify how a transition member’s (as defined in Regulation 1(1) of the Transitional Regulations) pension benefits accrued under the 1967 Scheme are, upon that member’s death, calculated and payable as 1967 Scheme survivor benefits. The amendment also disapplies a restriction currently contained in 2 of the 1967 Scheme Regulations to the effect that survivor benefits are not payable to persons who married or entered into a civil partnership (or other specified relationship) with the member after he or she reached normal retiring age.

Regulation 34 makes a consequential amendment further to the amendments made by *Regulation 17* in respect of nominated cohabiting partners. The amendment provides that a cohabiting partner is entitled to 1967 Scheme survivor benefits if he or she is

able to evidence that he or she was the transition member's cohabiting partner for a continuous period of 2 years up to the date of that member's death.

Regulation 35 makes amendments which would enable a member who retired on the grounds of ill-health under the 1967 Scheme but who subsequently re-enters service as a member of the Scheme, to elect to be treated as a transition member. This would mean that that member's pensionable service accrued in the 1967 Scheme prior to his or her ill-health retirement would be linked to that member's final salary on retirement or leaving the Scheme. An election has to be made not later than 3 months after accepting the offer of employment otherwise that member would receive a deferred pension under the 1967 Scheme instead.

Regulation 36 inserts a new Regulation 13A into the Transitional Regulations which would enable a transition member who has been diagnosed as terminally ill to exchange the whole of his or her 1967 Scheme benefits for a lump sum.

Regulation 37 inserts a new Regulation 14A into the Transitional Regulations which would enable a uniformed transition member who has accrued less than 10 years' pensionable service in the 1967 Scheme, to aggregate that service and pensionable service accrued under the Scheme for the purposes of determining whether that member has accrued a minimum of 10 years' pensionable service so as to qualify for the earlier payment of 1967 Scheme benefits.

Regulations 38 to 41 are date amendments in respect of 1st January 2016.

Regulation 42 gives the title by which these Regulations may be cited and provides for them to come into force 7 days after they are made.



Jersey

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

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DRAFT PUBLIC EMPLOYEES (PENSION 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 (Pensions) (Jersey) Law 2014¹ –

PART 1

AMENDMENT OF THE PUBLIC EMPLOYEES (PENSION SCHEME) (FUNDING AND VALUATION) (JERSEY) REGULATIONS 2015

1 Public Employees (Pension Scheme) (Funding and Valuation) (Jersey) Regulations 2015 amended

This Part amends the Public Employees (Pension Scheme) (Funding and Valuation) (Jersey) Regulations 2015², and a reference to –

- (a) a Regulation by number is to the Regulation of the same number in those Regulations; and
- (b) a paragraph or sub-paragraph by number of a Schedule to those Regulations by number, is to the paragraph or sub-paragraph of the same number in that Schedule of the same number.

2 Regulation 1 (interpretation) amended

In Regulation 1 –

- (a) the definitions “1st commencement date” and “2nd commencement date” are deleted;
- (b) in paragraphs (a) and (b) of the definition “1967 Scheme employer” for “the 1st commencement date” there is substituted “1st January 2016”;
- (c) after the definition “category C member” there is inserted –
““cohabiting partner” has the meaning given in Regulation 3 of the Membership and Benefits Regulations;”;

- (d) the definition “nominated cohabiting partner” is deleted;
- (e) in the definition “prudent assumptions” for “actuarial assumptions that” there is substituted “a set of actuarial assumptions that, when taken together,”.

3 Regulation 2 (funding strategy statement) amended

In Regulation 2(3)(a) –

- (a) in clause (iii) for “the 2nd commencement date” there is substituted “1st January 2019”;
- (b) in clause (iv) “nominated” is deleted.

4 Regulation 3 (actuarial valuations) amended

In Regulation 3(7)(b)(i)(C) for “the 2nd commencement date” there is substituted “1st January 2019”.

5 Regulation 8 (annual increases in pension) amended

For Regulation 8(4) there is substituted –

- “(4) In respect of the 1967 Scheme –
 - (a) the percentage of AIRPI to be specified in the rates and adjustments certificate for the purposes of applying the annual pension increase, shall be a minimum of 0% of AIRPI up to and including a maximum of 100% of AIRPI;
 - (b) paragraph (5) applies if, during the year preceding the year in which the annual pension increase is applied –
 - (i) retirement benefits come into payment, or
 - (ii) entitlement to deferred retirement benefits (including any deferred lump sum under the 1992 Regulations) arises.
- (5) Retirement benefits referred to in paragraph (4)(b) are to be increased only by 1/365 of the full annual pension increase rate for each day of payment or entitlement.”.

6 Regulation 12 (interim rates) amended

In Regulation 12(1) for “the 1st commencement date” there is substituted “1st January 2016”.

7 Regulation 13 (scheme member transitional contribution rates) amended

In Regulation 13(1)(b) for “the 2nd commencement date” there is substituted “1st January 2019”.

8 Regulation 14 (continuing members of the 1967 Scheme – transitional contribution rates) amended

In Regulation 14(1) for “the 2nd commencement date” there is substituted “1st January 2019”.

9 Regulation 15 (employer transitional contribution rates) amended

In Regulation 15(1) for “the 2nd commencement date” there is substituted “1st January 2019”.

10 Regulation 18 (transitional costs of funding benefits under the respective schemes) amended

In Regulation 18(5)(c) “nominated” is deleted.

11 Regulation 19 (ring-fencing of 1967 Scheme assets) amended

In Regulation 19(1) for “the 2nd commencement date” there is substituted “1st January 2019”.

12 Regulation 21 (citation and commencement) amended

In Regulation 21(2) for “the 2nd commencement date” there is substituted “1st January 2019”.

13 Schedule 1 (interim rates) amended

In Schedule 1 –

- (a) in each of the following paragraphs, for “the 1st commencement date” there is substituted “1st January 2016” –
 - (i) paragraph 1(1),
 - (ii) paragraph 2(1) and (4),
 - (iii) paragraph 3(1),
 - (iv) paragraph 4(1)(b) and (2), and
 - (v) paragraph 5(2);
- (b) in paragraphs 4(1)(d) and 5(5) for “the 2nd commencement date” there is substituted “1st January 2019”.

14 Schedule 5 (re-payment of pre-1988 liability) amended

In Schedule 5 –

- (a) in sub-paragraph (1) –
 - (i) in the definition “1967 Scheme employer” for “the 1st commencement date” there is substituted “1st January 2016”,

- (ii) in clause (b) of the definition “admitted employer” for “the 1st commencement date” there is substituted “1st January 2016”;
 - (iii) in sub-paragraphs (2), (4)(a) and 5(c) for “the 1st commencement date” there is substituted “1st January 2016”;
- (b) in sub-paragraph (4)(b) for “contributing members” there is substituted “members of the respective schemes”.

PART 2

AMENDMENT OF THE PUBLIC EMPLOYEES (PENSION SCHEME) (MEMBERSHIP AND BENEFITS) (JERSEY) REGULATIONS 2015

15 Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015 amended

This Part amends the Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015³ and a reference to –

- (a) a Regulation by number is to the Regulation of the same number in those Regulations; and
- (b) a paragraph by number of a Schedule to those Regulations by number, is to the paragraph of the same number in that Schedule of the same number.

16 Regulation 1 (interpretation) amended

In Regulation 1 –

- (a) after the definitions “civil partnership” and “civil partners” there is inserted –
 - ““cohabiting partner” has the meaning given in Regulation 3;”;
- (b) the definition “nominated cohabiting partner” is deleted;
- (c) in the definition “surviving partner”, “nominated” is deleted.

17 Regulation 3 (meaning of “nominated cohabiting partner”) substituted

For Regulation 3 there is substituted –

“3 Meaning of “cohabiting partner”

- (1) For the purposes of this Regulation “member” (“M”) means an active, deferred or pensioner member.

- (2) A “cohabiting partner” means a person (“P”) who meets all the conditions set out in paragraph (3) for a continuous period of 2 years up to the date of M’s death.
- (3) Subject to paragraph (4), P is entitled to receive benefits under Part 6 (survivor benefits) if –
 - (a) M was married to, or had formed a civil partnership with, P;
 - (b) M and P were living together as if they were spouses or as if they were civil partners;
 - (c) neither M nor P was living with a third person as if they were spouses or as if they were civil partners; and
 - (d) either P was financially dependent on M or M and P were financially interdependent.
- (4) Benefits under Part 6 are not payable unless P provides the Committee with such evidence as the Committee requires to show that the conditions set out in paragraph (3) have been satisfied for the period specified in paragraph (2).”.

18 Regulation 6 (pensionable allowances) amended

For Regulation 6(9) there is substituted –

- “(9) The revocation of a pensionable allowance declaration takes effect upon the expiry of the notice given by the employer under paragraph (8).”.

19 Regulation 15 (additional voluntary contributions) amended

In Regulation 15 paragraph (3) is deleted.

20 Regulation 20 (management of pension records) amended

In Regulation 20(3)(c) for “any of Regulations 33 to 35” there is substituted “Regulation 33 or 34”.

21 Regulation 21 (active member pension record) amended

In Regulation 21(5) –

- (a) in sub-paragraph (a) after “pensioner member” there is inserted “, or dies”;
- (b) for sub-paragraph (d) there is substituted –
 - “(d) anything attributable to a pension record adjustment, under Regulation 20(4), arising during that scheme year.”.

22 Regulation 34 (conversion of retirement benefits into lump sum not exceeding £30,000) substituted

For Regulation 34 there is substituted –

“34 Exchange of trivial retirement benefits for lump sum

- (1) In accordance with Article 131CE (permitted commutation – trivial pension) of the Income Tax Law and this Regulation, an active or deferred member is permitted to elect to exchange the whole of the capital value of his or her retirement benefits 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 Public Employees Pension Scheme referred to in Article 2(1) of the Public Employees (Pensions) (Jersey) Law 2014 ⁴ (the “Scheme”)”
“commute”	“exchange”
“pension holder”	“active or deferred member of the Scheme”
“fund value”	“capital value of the active or deferred member’s retirement benefits accrued under the Scheme”.

- (3) An exchange under paragraph (1) is not permitted where the capital value of the active or deferred member’s retirement benefits 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) an active member, be made on the day after the member ceases Scheme employment, or
 - (ii) a deferred member, be made not later than 3 months after the date of the election under paragraph (1);

- (b) extinguishes the active or deferred 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."

23 Regulation 35 (conversion of retirement benefits into lump sum not exceeding £18,000) deleted

Regulation 35 is deleted.

24 Regulation 43 (death in Scheme employment – lump sum benefit) amended

For Regulation 43(7) there is substituted –

- “(7) In paragraph (1)(a) “relatives” means any of the following persons –
 - (a) spouse;
 - (b) civil partner or co-habiting partner;
 - (c) son or daughter;
 - (d) brother or sister;
 - (e) parent;
 - (f) grandparent;
 - (g) grandchild;
 - (h) uncle or aunt;
 - (i) nephew or niece.”

25 Regulation 49 (bankruptcy and non-assignment of Scheme benefits) amended

In Regulation 49(1)(a)(ii) for “nominated cohabiting partner, civil partner” there is substituted “civil partner, cohabiting partner”.

26 Schedule 2 (forfeiture of Scheme benefits) amended

In paragraph 5(2) (effect of forfeiture), for “the person's employer, or the fund in a case falling under paragraph 2(4)(d)” there is substituted “the fund, or in a case falling under paragraph 2(4)(d), the person's employer”.

PART 3

AMENDMENT OF THE PUBLIC EMPLOYEES (PENSION SCHEME) (TRANSITIONAL PROVISIONS, SAVINGS AND CONSEQUENTIAL AMENDMENTS) (JERSEY) REGULATIONS 2015

27 Public Employees (Pension Scheme) (Transitional Provisions, Savings and Consequential Amendments) (Jersey) Regulations 2015 amended

This Part amends the Public Employees (Pension Scheme) (Transitional Provisions, Savings and Consequential Amendments) (Jersey) Regulations 2015⁵, and a reference to a Regulation by number is to the Regulation of the same number in those Regulations.

28 Regulation 1 (interpretation) amended

In Regulation 1(1) –

- (a) the definitions “1st commencement date” and “2nd commencement date” are deleted;
- (b) after the definition “contributing member of the 1967 Scheme” there is inserted –
 - “ “employer” means the States Employment Board or an admitted employer within the meaning of Regulation 1 of the Membership and Benefits Regulations;”;
- (c) after the definition “General Regulations” there is inserted –
 - “ “ill-health retired member” means a person in receipt of a pension under the relevant 1967 Scheme ill-health retirement Regulations within the meaning of Regulation 13(1);
 - “Independent Occupational Health Adviser” means a person who is appointed by the States Employment Board (the “Board”) for the purpose of enabling the Board to discharge its function of ensuring the health, safety and well-being of States’ employees under Article 8(1)(c) of the Employment of States of Jersey Employees (Jersey) Law 2005⁶;”;
- (d) in the definition “transition date” for “2nd commencement date” there is substituted 1st January 2019;
- (e) in the definition “transition member” after “or 4” there is inserted “, or who elects to be treated as a transition member under Regulation 13(5)”.

29 Regulation 2 (automatic membership of the Scheme on 2nd commencement date) amended

- (1) In the heading of Regulation 2 for “2nd commencement date” there is substituted “1st January 2019”.
- (2) In Regulation 2(1) and (2), wherever it occurs, for “the 2nd commencement date” there is substituted “1st January 2019”.

30 Regulation 3 (optional membership of the Scheme) amended

In Regulation 3(2), wherever it occurs, for “the 2nd commencement date” there is substituted “1st January 2019”.

31 Regulation 4 (change of category of membership by a continuing member of the 1967 Scheme) amended

In Regulation 4(5) for “the 2nd commencement date” there is substituted “1st January 2019”.

32 Regulation 7 (retirement benefits) amended

In Regulation 7 –

- (a) in paragraphs (5) and (6)(a) for “the 2nd commencement date” there is substituted “1st January 2019”;
- (b) in paragraph (8)(c) for “the 1st commencement date” there is substituted “1st January 2016”.

33 Regulation 10 (survivor benefits) amended

In Regulation 10 –

- (a) for paragraph (2) there is substituted –

“(2) If a transition member dies as an active, deferred or pensioner member of the Scheme, his or her 1967 Scheme survivor benefits are payable in accordance with whichever of the 1967 Scheme Regulations applied to that transition member on the day before the transition date except that –

- (a) where a transition member dies as a pensioner in receipt of a pension under the Existing Members Regulations or New Members Regulations (as the case may be), the proviso in Regulation 11(1) (death of a pensioner) of those Regulations, is not to have effect in relation to benefits payable under that Regulation in respect of the transition member concerned;
- (b) the annual amount of 1967 Scheme survivor benefits payable under whichever of the 1967 Scheme Regulations applied to that transition member, must be calculated by reference to –
 - (i) pensionable service accrued (under the 1967 Scheme) as at the day before the transition date; and
 - (ii) final pensionable earnings calculated in accordance with Regulation 9 or, with effect from 1st January 2019, Regulation 9B.”.

34 Regulation 11 (extension of 1967 Scheme survivor benefits to nominated cohabiting partner) amended

In Regulation 11 –

- (a) in the heading, “nominated” is deleted;
- (b) in paragraph (1)(b), “nominated” is deleted;
- (c) for paragraphs (3) to (5) there is substituted –
 - “(3) Subject to paragraph (4), the cohabiting partner of a transition member who is an active, deferred or pensioner member of the Scheme (whether or not in receipt of his or her 1967 Scheme retirement benefits), is entitled to receive that transition member’s 1967 Scheme survivor benefits.
 - (4) Regulation 3(4) of the Membership and Benefits Regulations applies for the purposes of 1967 Scheme survivor benefits payable to a cohabiting partner under this Regulation.
 - (5) For the purposes of this Regulation any reference to a “spouse” or “civil partner” in the Existing Members Regulations or New Members Regulations is to be taken to include a reference to a cohabiting partner.”.

35 Regulation 13 (ill-health – 1967 Scheme)

In Regulation 13 –

- (a) in paragraph (1), after “transition member” there is inserted “or an ill-health retired member”;
- (b) after paragraph (3) there is inserted –
 - “(4) With effect from the transition date, paragraphs (5) to (7) apply to an ill-health retired member who –
 - (a) ceases to receive a pension under the relevant 1967 Scheme ill-health retirement Regulations;
 - (b) under those Regulations accepts an offer of employment from an employer; and
 - (c) becomes, on or after the transition date, an active member of the Scheme under Regulation 8 of the Membership and Benefits Regulations.
- (5) An ill-health retired member may, under this Regulation, elect to be treated as a transition member for the purposes of these Regulations and be entitled to receive payment of his or her retirement benefits accrued under the 1967 Scheme in accordance with Regulation 7, and calculated in accordance with Regulation 9 or, with effect from 1st January 2019, Regulation 9B.
- (6) An election under paragraph (5) must be made –
 - (a) before the expiry of 3 months commencing with the date on which the ill-health retired member accepts an offer of employment from an employer; and
 - (b) in such form and manner as the Administrator specifies.

- (7) If an ill-health retired member makes no such election, he or she is entitled to a deferred pension under whichever of the 1967 Scheme Regulations applied to that member immediately before he or she became an active member of the Scheme.”.

36 Regulation 13A inserted

After Regulation 13 (ill-health – 1967 Scheme) there is inserted –

“13A Conversion of 1967 Scheme retirement benefits into lump sum – terminal illness

- (1) This Regulation applies to a transition member who is eligible to payment of an ill-health pension under Regulation 36 of the Membership and Benefits Regulations and who the Independent Occupational Health Adviser certifies as having a life expectancy of 12 months or less.
- (2) A transition member may, under this Regulation, apply to the Administrator to exchange the whole of his or her 1967 Scheme retirement benefits accrued as at the day before the transition date, for a lump sum payment equal to –
 - (a) 70% of the total amount of those benefits multiplied by 5; and
 - (b) 30% of the balancing amount of those benefits payable at the rate of £13.50 per £1 of benefit exchanged.
- (3) The lump sum is to be paid immediately the transition member leaves Scheme employment.
- (4) A lump sum payment under this Regulation will extinguish the transition member’s rights to any other benefits under the 1967 Scheme, but will not extinguish the rights of any person contingently entitled to any benefit payable upon that transition member’s death.”.

37 Regulation 14A inserted

After Regulation 14 (payment of retirement benefits before normal pension age – uniformed members) there is inserted –

“14A Payment of retirement benefits before normal pension age – uniformed members with less than 10 years’ pensionable service under the 1967 Scheme

- (1) This Regulation applies to a transition member who –
 - (a) as at the day before the transition date was a uniformed member of the 1967 Scheme;
 - (b) as at the day before the transition date had accrued less than 10 years’ pensionable service under the 1967 Scheme; and

- (c) on the transition date continues as a uniformed member of the Scheme.
- (2) The pensionable service accrued under each of the respective schemes by a transition member to whom this Regulation applies, may be aggregated for the purpose of determining whether such a member has accrued a minimum of 10 years' pensionable service so as to qualify for earlier payment of his or her 1967 Scheme retirement benefits, calculated in accordance with the relevant Regulations.
- (3) In this Regulation –
 - (a) “relevant Regulations” means Regulation 6 (pensions payable before normal retiring age to members with 10 years' pensionable service) of the Existing Members Regulations or New Members Regulations (as the case may be);
 - (b) “uniformed member of the 1967 Scheme” means a category A member (other than such a member in respect of whom the relevant Regulations do not apply), a category B or a category C member.”.

38 Regulation 15 (transfer payments) amended

In Regulation 15(5) for “the 1st commencement date” there is substituted “1st January 2016”.

39 Regulation 16 (admission of 1967 Scheme employers to the Scheme) amended

In Regulation 16(1) and (4) for “the 1st commencement date” there is substituted “1st January 2016”.

40 Regulation 17 (continued obligations of 1967 Scheme employers and contribution certificates) amended

In Regulation 17, in both places in paragraph (1), and in paragraph (2), for “the 1st commencement date” there is substituted “1st January 2016”.

41 Regulation 18 (appointments etc.) amended

In Regulation 18(1) and (2) for “the 1st commencement date” there is substituted “1st January 2016”.

PART 4

CLOSING

42 Citation and commencement

These Regulations may be cited as the Public Employees (Pension 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

<i>1</i>	<i>chapter 16.640</i>
<i>2</i>	<i>chapter 16.640.20</i>
<i>3</i>	<i>chapter 16.640.30</i>
<i>4</i>	<i>chapter 16.640</i>
<i>5</i>	<i>chapter 16.640.70</i>
<i>6</i>	<i>chapter 16.325</i>