

STATES OF JERSEY

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DRAFT TEACHERS' SUPERANNUATION (AMENDMENT No. 2) (JERSEY) LAW 200

**Lodged au Greffe on 5th June 2006
by the Minister for Education, Sport and Culture**

STATES GREFFE



Jersey

DRAFT TEACHERS' SUPERANNUATION (AMENDMENT No. 2) (JERSEY) LAW 200-

European Convention on Human Rights

The Minister for Education, Sport and Culture has made the following statement –

In the view of the Minister for Education, Sport and Culture the provisions of the Draft Teachers' Superannuation (Amendment No. 2) (Jersey) Law 200 are compatible with the Convention Rights.

(Signed) **Senator M.E. Vibert**

REPORT

Background

The Teachers' Superannuation (Jersey) Law makes provisions in relation to pensions and other similar benefits payable to, and in respect of, teachers and certain other persons employed in connection with the provision of educational services. Changes are required to the existing legislation to give effect to the former Education, Sport and Culture Committee's in-principle decision to align teachers' benefits to Jersey public sector pension benefits.

Proposed Amendment

The Jersey Teachers' Superannuation Fund (JTSF) provides pensions and benefits for teaching staff and operates under the Teachers' Superannuation (Jersey) Law 1979. Pension increases are funded outside the Fund and the previous Education and Education, Sport and Culture Committees were of the view that they wished to reduce the rising revenue implications of funding pension increases from revenue cash limits.

It was anticipated that the issue of rising revenue costs could be addressed by transferring the membership of the JTSF to the Public Employees Contributory Retirement Scheme (PECRS). However, due to issues relating to the funding of past service liabilities within the PECRS the transfer did not take place.

A valuation of the JTSF was carried out as at the end of 2001 and the results were received in January 2004. This identified a small surplus, but a deficit when taking into account pension increases and new provisions for widowers necessary for the restoration of transferability of teachers' pension rights to and from the U.K.

At its meeting on 24th October 2005 the Education, Sport and Culture Committee considered the Government Actuary's Department's report in connection with the actuarial valuation of the JTSF as at 31st December 2001, together with proposals for dealing with the deficit revealed. The Committee agreed, in principle, to provide for a Teachers' Scheme similar to the PECRS. The cost of this proposal will be an additional £1.3 million a year which has been added to the Department's cash limit from 2007.

Conclusion

Amendments to the Teachers' Superannuation (Jersey) Law 1979 allow for changes to the governance arrangements to reflect the impact of Ministerial government, to allow the Fund to be administered by a Management Board and to allow for pension increases to be funded from the Fund.

Amendments to the existing Orders will be required to introduce a new tier of membership from 1st January 2007 similar to the PECRS New Members' (2005) Scheme.

Financial and manpower statement

There are no additional manpower implications arising from this amendment.

There are additional revenue implications of £1.3 million per annum in order to deal with the deficit on the JTSF which, following consideration by the Council of Ministers, has been added to the Department's cash limit from 2007.

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 24th May 2006 the Minister for Education, Sport and Culture made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Education, Sport and Culture the provisions of the Draft Teachers' Superannuation (Amendment No. 2) (Jersey) Law 200 are compatible with the Convention Rights.

Explanatory Note

Article 1 defines “principal Law” to mean the Teachers’ Superannuation (Jersey) Law 1979.

Article 2 amends various definitions in the principal Law.

Article 3 amends Article 2 of the principal Law, which relates to the provision of pensions under the Law.

The amendments will enable Orders under the Law to establish a Management Board to manage the Fund. The Management Board may delegate its powers and functions, but no power or function relating to the investment of money in the Fund may be delegated without the consent of the Minister for Treasury and Resources.

Orders may specify what shall happen if a report of the Actuary shows a deficiency or disposable surplus in the Fund, may specify when pension increases may be payable, and may also enable lump sums to be paid from the Fund.

Paragraph (e) enables Orders made between 1 January 2007 and 1 January 2008 to be made retrospective to 1 January 2007, but only in relation to teachers first employed, or re-employed, after 1 January 2007. An Order made retrospective to 1 January 2007 may also amend other enactments that are inconsistent with the Order, and may set out the Order’s retrospective operation and effect.

It is important to note that such an Order shall not be subject to Article 2(5) of the existing Law, which states that an Order that is framed to have effect from a date earlier than the date on which it is made “shall not place any person who is qualified to participate in the benefits for which it provides in a worse position than the person would have been in if the Order had had effect only from the date on which it is made”.

An order made retrospective to 1 January 2007 is not to be subject to that paragraph because the contributions of teachers and employers first employed, or re-employed, after 1 January 2007, and the benefits granted to them, may be less than they would receive under the current scheme.

Paragraphs (b)(ii) and (d) correct 2 errors in the existing Law.

Article 4 amends Article 3 of the principal Law, which deals with the Teachers’ Superannuation Fund, to enable the transfer from the Minister for Treasury and Resources to the Management Board of most of the responsibilities of that Minister. The Minister for Education, Sport and Culture shall retain the power to make Orders under the Law and the power to enter into reciprocal arrangements with other employers.

Paragraph (c) enables investment managers to be appointed by the Management Board after consultation with the Minister for Treasury and Resources (replacing current provisions whereby that Minister appoints such persons after consulting with the Minister for Education, Sport and Culture).

Paragraph (d) enables the control of the investments of, and the application of the assets of, the Fund to be moved from the Minister for Treasury and Resources to the Management Board, and enables the Board, rather than that Minister, to direct the Treasurer of the States and the investment managers in relation to the investment of monies in the Fund.

Paragraph (e) allows the Treasurer of the States (rather than the Minister for Treasury and Resources, who is currently granted the power) to borrow money for the purposes of the Fund.

Paragraph (f) establishes that the Actuary for the Fund shall be appointed by the Management Board, rather than by the Minister for Treasury and Resources, as is currently the case. However, the Management Board may only do so with the approval of the Minister for Education, Sport and Culture after that Minister has consulted with the Minister for Treasury and Resources.

The Actuary shall report to both Ministers and the Management Board. The Minister for Education, Sport and Culture shall be responsible for laying the report before the States.

Article 5 amends Article 7 so that only the Minister for Education, Sport and Culture shall have the power to make Orders (previously the power was given to both that Minister and the Minister for Treasury and Resources). Before making such an Order, the Minister is required to consult with the Management Board.

Article 6 specifies the name of the amending Law and that it shall come into force on the date or date appointed by the States.



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Arrangement

Article

<u>1</u>	<u>Interpretation</u>
<u>2</u>	<u>Article 1 amended</u>
<u>3</u>	<u>Article 2 amended</u>
<u>4</u>	<u>Article 3 amended</u>
<u>5</u>	<u>Article 7 substituted</u>
<u>6</u>	<u>Citation and commencement</u>



Jersey

DRAFT TEACHERS' SUPERANNUATION (AMENDMENT No. 2) (JERSEY) LAW 200-

A LAW to amend further the Teachers' Superannuation (Jersey) Law 1979.

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 Interpretation

In this Law, “principal Law” means the Teachers’ Superannuation (Jersey) Law 1979^[1].

2 Article 1 amended

In Article 1 of the principal Law –

(a) before the definition “Minister”, there shall be inserted the following definitions –

“ ‘Actuary’ means the person appointed under Article 3(11) to be the Actuary in relation to the Fund;

‘Fund’ means the fund established by Article 3;

‘Management Board’ means the Management Board established by an Order in accordance with Article 2(2)(ha);”;

(b) for the definition “pension” there shall be substituted the following definition –

“ ‘pension’ includes allowance, gratuity or other benefit;”;

(c) in the definition “prescribed” there shall be deleted all the words after “by the Minister”.

3 Article 2 amended

In Article 2 of the principal Law –

(a) in paragraph (1), for the words “paid by the Minister” there shall be substituted the words “paid, out of the Fund,”;

(b) in paragraph (2)–

(i) for sub-paragraph (a) there shall be substituted the following sub-paragraph –

- “(a) provide for the Minister to enter into reciprocal arrangements with employers and for there to be paid from and received into the Fund transfer values, or, in the place of them, for there to be transferred or received any fund or part of a fund or policy of insurance;”;
- (ii) in sub-paragraph (d)(ii) for the words “paid or recovered” there shall be substituted the words “paid are recovered”;
- (iii) in sub-paragraph (g), for the word “Minister” there shall be substituted the words “Minister or Management Board”;
- (iv) after sub-paragraph (h) there shall be inserted the following sub-paragraphs –
 - “(ha) establish a Management Board comprised of the prescribed persons and having, in addition to any powers or duties conferred or imposed by this Law, the prescribed powers, prescribed duties and prescribed functions in relation to the management of the Fund;
 - (hb) provide for the circumstances in which increases in pensions may be payable by the Fund;
 - (hc) provide what is to happen if a report of the Actuary under Article 3(13) or under the Order shows a deficiency or disposable surplus in the Fund;
 - (hd) provide that where a lump sum becomes payable under the scheme on the death of a teacher, the Management Board shall determine –
 - (i) the recipients (whether individuals or persons),
 - (ii) whether the lump sum is to be paid wholly to one recipient or in parts to more than one recipient,
 - (iii) whether the lump sum is to be paid in full, partially or not at all;”;
- (c) by inserting after paragraph (2) the following paragraphs –
 - “(2A) The Management Board may delegate all or any of the powers, duties or functions conferred or imposed on it under this Law or an Order made under this Law.
 - (2B) However, the Management Board shall not, without the consent of the Minister for Treasury and Resources, delegate any power, duty or function relating to the investment of money in the Fund.”;
- (d) in paragraph (4) for the words “service in which is pensionable” there shall be substituted the words “service which is pensionable”;
- (e) at the end there shall be added the following paragraphs –
 - “(6) An Order made under this Article after 1 January 2007 and before 1 January 2008 may specify that it shall be taken to have come into force from 1 January 2007, if the Order does not apply to or in respect of a teacher other than a teacher who has after 1 January 2007 entered, or reentered, into service in respect of which a pension is or may be payable under this Law.
 - (7) An Order to which paragraph (6) applies may contain –
 - (a) provisions in relation to the repeal or amendment of any enactment which is inconsistent with, or has become unnecessary or requires modification in consequence of, the Order; and
 - (b) provisions relating to the retrospective operation and effect of the Order.
 - (8) The proviso to paragraph (5) shall not apply in relation to an Order to which paragraph (6) applies.”.


In Article 3 of the principal Law –

- (a) in paragraph (1) the words“(hereinafter referred to as the “Fund”)” shall be deleted;
- (b) in paragraph (3)(a) at the end there shall be added the words“and any increases in pensions”;
- (c) for paragraphs (4) and (5) there shall be substituted the following paragraphs –
 - “(4) Any monies in the Fund which are not for the time being required for the purposes described in paragraph (3) may be paid over to–
 - (a) an investment manager; or
 - (b) the Treasurer of the States,and may, by either of them, be invested in accordance with any directions that may be given by the Management Board.
 - (5) The Minister may by Order make provision in relation to the appointment of investment managers by the Management Board.
 - (5A) The Management Board may, after consultation with the Minister for Treasury and Resources, appoint one or more investment managers in accordance with an Order made under paragraph (5).”;
- (d) in paragraphs (6)(b)(ii), (7) and (8)(a) and (b), for the words “Minister for Treasury and Resources” in each place where they appear there shall be substituted the words “Management Board”;
- (e) in paragraph (9), for the words“The Minister for Treasury and Resources may borrow money under the guarantee of the annual income of the States” there shall be substituted the words “The Treasurer of the States may borrow money”;
- (f) for paragraphs (10), (11) and (12) there shall be substituted the following paragraphs –
 - “(10) The Management Board shall ensure that regular meetings to discuss the management of the Fund are held between it and the investment managers.
 - (11) The Management Board shall, with the approval of the Minister after the Minister has consulted with the Minister for Treasury and Resources, appoint a person with the prescribed qualifications, if any, to be the Actuary in relation to the Fund.
 - (12) The Actuary shall review the operation of the Fund in respect of –
 - (a) each 5 year period beginning on the 1st September 1986; or
 - (b) each period, of less than 5 years, that the Minister may, after consultation with the Management Board, determine,and shall complete the review as soon as practicable after the end of that period.
 - (13) On each review under paragraph (12), the Actuary shall make a report to the Minister the Minister for Treasury and Resources and the Management Board on –
 - (a) the financial condition of the Fund; and
 - (b) the adequacy or otherwise of the contributions payable under this Law to support the pensions and other benefits payable under this Law.
 - (14) A copy of every report under paragraph (13) shall be laid by the Minister before the States as soon as practicable after it is made.”.

5 Article 7 substituted

In the principal Law for Article 7 there shall be substituted the following Article–

“7 Orders

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- (1) The Minister may make Orders prescribing anything which by this Law is to be prescribed.
 - (2) Before making an Order under this Law, the Minister shall consult with the Management Board.”.

6 Citation and commencement

- (1) This Law may be cited as the Teachers’ Superannuation (Amendment No. 2) (Jersey) Law 200.
- (2) This Law shall come into force on the seventh day following its registration.

