

# STATES OF JERSEY



## **DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (COMMUTATION OF SMALL PENSIONS – AMENDMENTS) (JERSEY) REGULATIONS 201-**

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**Lodged au Greffe on 6th September 2013  
by the States Employment Board**

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**STATES GREFFE**





Jersey

# **DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (COMMUTATION OF SMALL PENSIONS – AMENDMENTS) (JERSEY) REGULATIONS 201-**

## **REPORT**

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### **Background**

1. At its meeting in August 2011, the States Employment Board agreed to a request from the Public Employees Contributory Retirement Scheme Committee of Management for changes to the 4 sets of Regulations that regulate the Public Employees Contributory Retirement Scheme regarding commutation of small pensions.
2. The Regulations affected by the amendments are as follows –
  - 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) Former Hospital Scheme (Jersey) Regulations 1992
  - Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967.

### **Discussion**

3. The proposed amendments concern the arrangements to convert a member's or deferred pensioner's entitlement to a very small pension, into a cash lump sum based on the value of his or her benefits which have accrued in the pension fund established under the principal Law. This arrangement is also known as a "commutation of a trivial pension".
4. Currently, Regulation 16 of both the Existing Members Regulations and the New Members Regulations, and Regulation 14 of the Former Hospital Scheme Regulations, provide that the Committee of Management has the discretion, on a person's retirement, to commute for a lump sum payment, 100% of any pension which is a trivial pension, i.e. a sum of not more than £104 per year, or such greater amount as may be specified by the Comptroller of Taxes. And, where a person dies (whether in retirement or not) any person entitled to receive contingent benefits under the Scheme, may at the discretion of the Committee of Management, have any trivial pension to which he or she is entitled commuted into a lump sum payment.

5. Up until 1st January 2009, the amount specified by the Comptroller was £520 per year (instead of £104). Since that date the Comptroller has withdrawn that specified amount, and the sum of £104 per year now applies in default. The sum of £520 per year previously specified by the Comptroller has in effect been superseded by sums prescribed in the 1972 Order. That Order provides for the income tax treatment in certain cases of lump sums representing commuted benefits valued up to £5,000 and £30,000.
6. The proposed amendments will align the Public Employees (Contributory Retirement Scheme) Regulations with the associated provisions in the 1972 Order so as to provide for the circumstances in which a trivial pension, subject to a maximum amount, prescribed in the 1972 Order, can be commuted into a lump sum payment.
7. Regulations 3, 7, and 9 substitute the provisions of Regulation 16 of the Existing Members and New Members Regulations and Regulation 14 of the Former Hospital Scheme Regulations, with new provisions which will enable a member or a deferred pensioner to elect on retirement, to commute a small pension for a lump sum payment. The making of an election is subject to the person concerned being aged 60 and the value of the person's accrued benefits in the Fund aggregated with any other lumps sum that the person may have previously elected to receive, must not exceed £30,000. Payment of the commuted lump sum will extinguish the member's or deferred pensioner's rights as well as the rights of any person contingently entitled to benefits which might otherwise have been payable under the Scheme.
8. Regulation 10 inserts a new commutation provision into the 1967 Regulations (none exists at present), which is analogous to the provision described above concerning the commutation of benefits not exceeding £30,000.
9. Regulations 4 and 8 insert an analogous provision into the Existing Members and New Members Regulations (but not the Former Hospital Scheme or the 1967 Regulations), which will enable a member who has left employment to exchange his or her contingent entitlement to a small deferred pension for a receipt of a lump sum subject to certain conditions including the lump sum not exceeding £5,000. The effect of these provisions is that a deferred pensioner will have the choice of whether to receive an immediate lump sum payment representing the value of his or her benefits accrued in the Fund at the time he or she leaves service, or of waiting until such time as he or she would ordinarily become entitled under the Regulations to draw his or her deferred pension (usually on reaching normal retirement age). However, payment of the lump sum will extinguish the deferred pensioner's rights as well as the rights of any person contingently entitled to benefits which might otherwise have been payable under the Scheme.
10. Regulation 11 provides for the title of these Regulations and for their coming into force 7 days after they are made.

### **Financial and manpower implications**

There are no additional financial or manpower implications for the States arising from these Draft Regulations.

## Explanatory Note

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These amending Regulations would analogously amend 4 sets of Regulations that regulate the Public Employees Contributory Retirement Scheme (the “PECRS”) constituted under the Public Employees (Retirement) Jersey Law 1967 (the “principal Law”). These Regulations are collectively referred to in this note as the “PECRS Regulations” and are divided into the following Parts –

- Part 1 amends the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989 (the “Existing Members Regulations”);
- Part 2 amends the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989 (the “New Members Regulations”);
- Part 3 amends the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992 (the “FHS Regulations”); and
- Part 4 amends the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 (the “1967 Regulations”).

The proposed amendments concern the arrangement to convert a member’s or deferred pensioner’s entitlement to a very small pension, into a cash lump sum based on the value of his or her benefits which have accrued in the pension fund (the “fund”) established under the principal Law. This arrangement is also known as a “commutation of a trivial pension”.

Currently, Regulation 16 of the Existing Members Regulations and New Members Regulations respectively, and Regulation 14 of the FHS Regulations provide that the fund’s Committee of Management has the discretion, on a person’s retirement, to commute for a lump sum payment, 100% of any pension which is a trivial pension, i.e. a sum of not more than £104 per year, or such greater amount as may be specified by the Comptroller of Taxes. And, where a person dies (whether in retirement or not) any person entitled to receive contingent benefits under the scheme, may at the discretion of the Committee of Management, have any trivial pension to which he or she is entitled commuted into a lump sum payment.

Up until 1st January 2009 the amount specified by the Comptroller was £520 per year (instead of £104). Since that date the Comptroller has withdrawn that specified amount and the sum of £104 per year now applies in default.

The Income Tax (Superannuation Funds) (Jersey) Order 1972 (as amended) (the “1972 Order”) provides for the treatment of commuted pension benefits for income tax purposes in respect of tax approved pension schemes. The sum of £520 per year that was previously specified by the Comptroller has in effect been superseded by sums prescribed in the 1972 Order. That Order provides for the income tax treatment in certain cases of lump sums representing commuted benefits valued up to £5,000 and £30,000.

The proposed amendments would align the PECRS Regulations with the associated provisions in the 1972 Order so as to provide for the circumstances in which a trivial pension, subject to a maximum amount prescribed in the 1972 Order, can be commuted into a lump sum payment.

*Regulations 1 and 5* are the interpretation provisions for the Regulations which are respectively amended under Part 1 and Part 2 of these Regulations.

*Regulations 2 and 6* analogously insert a new definition in Regulation 1 of the Existing Members and New Members Regulations so that any reference to the “Income Tax Law” is taken to mean the Income Tax (Jersey) Law 1961.

*Regulations 3, 7 and 9* substitute the provisions of Regulation 16 of the Existing Members and New Members Regulations and Regulation 14 of FHS Regulations with new provisions which will enable a member or deferred pensioner to elect on retirement, to commute a small pension for a lump sum payment. The making of an election is subject to the person concerned being age 60 and the value of the person’s accrued benefits in the fund aggregated with any other lump sum that the person may have previously elected to receive, must not exceed £30,000. Payment of the commuted lump sum will extinguish the member’s or deferred pensioner’s rights as well as the rights of any person contingently entitled to benefits which might otherwise have been payable under the scheme.

*Regulation 10* inserts a new commutation provision into the 1967 Regulations (none exists at present), which is analogous to the provision described above concerning the commutation of benefits not exceeding £30,000.

*Regulations 4 and 8* insert an analogous provisions into the Existing Members and New Members Regulations (but not the FHS or the 1967 Regulations), which will enable a member who has left employment to exchange his or her contingent entitlement to a small deferred pension for receipt of a lump sum subject to certain conditions including the lump sum not exceeding £5,000. The effect of these provisions is that a deferred pensioner will have the choice of whether to receive an immediate lump sum payment representing the value of his or her benefits accrued in the fund at the time he or she leaves service, or of waiting until such time as he or she would ordinarily become entitled under the Regulations to draw his or her deferred pension (usually on reaching normal retirement age). However, payment of the lump sum will extinguish the deferred pensioner’s rights as well as the rights of any person contingently entitled to benefits which might otherwise have been payable under the scheme.

*Regulation 11* provides for the title of these Regulations and for their coming into force 7 days after they are made.



Jersey

## **DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (COMMUTATION OF SMALL PENSIONS – AMENDMENTS) (JERSEY) REGULATIONS 201-**

### **Arrangement**

#### **Regulation**

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Jersey

## **DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (COMMUTATION OF SMALL PENSIONS – AMENDMENTS) (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 1967<sup>1</sup>, have made the following Regulations –

### **PART 1**

#### **AMENDMENTS TO THE PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (EXISTING MEMBERS) (JERSEY) REGULATIONS 1989**

##### **1 Interpretation**

In this Part “principal Regulations” mean the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989<sup>2</sup>.

##### **2 Regulation 1 amended**

In Regulation 1 of the principal Regulations, after the definition “General Regulations” there is inserted the following definition –

“ ‘Income Tax Law’ means the Income Tax (Jersey) Law 1961<sup>3</sup>;”.

##### **3 Regulation 16 substituted**

For Regulation 16 of the principal Regulations, there is substituted the following Regulation –

**“16 Payment of lump sum not exceeding £30,000**

- (1) Subject to fulfilment of the conditions set out in paragraph (2), when a member or deferred pensioner becomes entitled to payment of a pension under the scheme, he or she may elect to receive in lieu of his or her pension, a lump sum by way of commutation of all the benefits to which he or she is entitled under the scheme.
- (2) The conditions are that –
  - (a) a member or deferred pensioner must have attained the age of 60; and
  - (b) the aggregate of –
    - (i) the value of the member’s or deferred pensioner’s accrued benefits in the fund at the time of the election, and
    - (ii) all lump sums that the member or deferred pensioner has previously elected to receive under Article 5(2D) of the Income Tax (Superannuation Funds) (Jersey) Order 1972<sup>4</sup>, or under Article 131B(3)(f) or Article 131CA(4)(g) of the Income Tax Law, must not, at the time of the election, exceed £30,000 or such other sum as may from time to time be prescribed in an Order made under Article 131 of the Income Tax Law.
- (3) An election under paragraph (1) shall be made in such form and manner as the Committee may specify.
- (4) The calculation of the lump sum payable under this Regulation shall be determined by the Committee after consulting the Actuary.
- (5) Payment of the lump sum shall extinguish the member’s or deferred pensioner’s rights to any other benefit under the scheme, as well as the rights of any person contingently entitled to any benefit payable upon the member’s or deferred pensioner’s death.”.

**4 Regulation 16A inserted**

After Regulation 16 of the principal Regulations, there is inserted the following Regulation –

**“16A Payment of lump sum not exceeding £5,000**

- (1) This Regulation applies to a member who ceases to be an employee and who would in accordance with the provisions of Regulation 8, be entitled to a deferred pension.
- (2) Subject to fulfilment of the conditions set out in paragraph (3), a member to whom this Regulation applies, may, on or after ceasing employment, elect to exchange his or her entitlement to a deferred pension for immediate payment of a lump sum by way of commutation of all the benefits to which he or she is entitled under the scheme.

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- (3) The conditions are that –
- (a) the employer does not make any contributions on the member’s behalf to another fund or scheme approved under Article 131 of the Income Tax Law;
  - (b) the lump sum does not exceed £5,000 or such other sum as may from time to time be prescribed in an Order made under Article 131 of the Income Tax Law; and
  - (c) that sum does not represent any benefits in respect of which a transfer payment has been made, such benefits having accrued in any other fund or scheme (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 (2) shall be made in such form and manner as the Committee may specify.
- (5) The calculation of the lump sum payable under this Regulation shall be determined by the Committee after consulting the Actuary.
- (6) Payment of the lump sum shall extinguish the member’s rights to any other benefit under the scheme, as well as the rights of any person contingently entitled to any benefit payable upon the member’s death.”.

## **PART 2**

### **AMENDMENTS TO THE PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (NEW MEMBERS) (JERSEY) REGULATIONS 1989**

#### **5 Interpretation**

In this Part “principal Regulations” mean the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989<sup>5</sup>.

#### **6 Regulation 1 amended**

In Regulation 1 of the principal Regulations, after the definition “General Regulations” there is inserted the following definition –

“ ‘Income Tax Law’ means the Income Tax (Jersey) Law 1961<sup>6</sup>;”.

#### **7 Regulation 16 substituted**

For Regulation 16 of the principal Regulations, there is substituted the following Regulation –

**“16 Payment of lump sum not exceeding £30,000**

- (1) Subject to fulfilment of the conditions set out in paragraph (2), when a member or deferred pensioner becomes entitled to payment of a pension under the scheme, he or she may elect to receive in lieu of his or her pension, a lump sum by way of commutation of all the benefits to which he or she is entitled under the scheme.
- (2) The conditions are that –
  - (a) a member or deferred pensioner must have attained the age of 60; and
  - (b) the aggregate of –
    - (i) the value of the member’s or deferred pensioner’s accrued benefits in the fund at the time of the election, and
    - (ii) all lump sums that the member or deferred pensioner has previously elected to receive under Article 5(2D) of the Income Tax (Superannuation Funds) (Jersey) Order 1972<sup>7</sup>, or under Article 131B(3)(f) or Article 131CA(4)(g) of the Income Tax Law,  
must not, at the time of the election, exceed £30,000 or such other sum as may from time to time be prescribed in an Order made under Article 131 of the Income Tax Law.
- (3) An election under paragraph (1) shall be made in such form and manner as the Committee may specify.
- (4) The calculation of the lump sum payable under this Regulation shall be determined by the Committee after consulting the Actuary.
- (5) Payment of the lump sum shall extinguish the member’s or deferred pensioner’s rights to any other benefit under the scheme, as well as the rights of any person contingently entitled to any benefit payable upon the member’s or deferred pensioner’s death.”.

**8 Regulation 16A inserted**

After Regulation 16 of the principal Regulations, there is inserted the following Regulation –

**“16A Payment of lump sum not exceeding £5,000**

- (1) This Regulation applies to a member who ceases to be an employee and who would in accordance with the provisions of Regulation 8, be entitled to a deferred pension.
- (2) Subject to fulfilment of the conditions set out in paragraph (3), a member to whom this Regulation applies, may, on or after ceasing employment, elect to exchange his or her entitlement to a deferred pension for immediate payment of a lump sum by way of commutation of all the benefits to which he or she is entitled under the scheme.

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- (3) The conditions are that –
- (a) the employer does not make any contributions on the member’s behalf to another fund or scheme approved under Article 131 of the Income Tax Law;
  - (b) the lump sum does not exceed £5,000 or such other sum as may from time to time be prescribed in an Order made under Article 131 of the Income Tax Law; and
  - (c) that sum does not represent any benefits in respect of which a transfer payment has been made, such benefits having accrued in any other fund or scheme (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 (2) shall be made in such form and manner as the Committee may specify.
- (5) The calculation of the lump sum payable under this Regulation shall be determined by the Committee after consulting the Actuary.
- (6) Payment of the lump sum shall extinguish the member’s rights to any other benefit under the scheme, as well as the rights of any person contingently entitled to any benefit payable upon the member’s death.”.

### **PART 3**

#### **AMENDMENTS TO THE PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (FORMER HOSPITAL SCHEME) (JERSEY) REGULATIONS 1992**

#### **9 Regulation 14 of the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992 substituted**

For Regulation 14 of the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992<sup>8</sup>, there is substituted the following Regulation –

#### **“14 Payment of lump sum not exceeding £30,000**

- (1) Subject to fulfilment of the conditions set out in paragraph (2), when a member or deferred pensioner becomes entitled to payment of a pension under the scheme, he or she may elect to receive in lieu of his or her pension, a lump sum by way of commutation of all the benefits to which he or she is entitled under the scheme.
- (2) The conditions are that –
  - (a) a member or deferred pensioner must have attained the age of 60; and
  - (b) the aggregate of –

- (i) the value of the member's or deferred pensioner's accrued benefits in the fund at the time of the election, and
  - (ii) all lump sums that the member or deferred pensioner has previously elected to receive under Article 5(2D) of the Income Tax (Superannuation Funds) (Jersey) Order 1972<sup>9</sup>, or under Article 131B(3)(f) or Article 131CA(4)(g) of the Income Tax (Jersey) Law 1961<sup>10</sup>,  
  
must not, at the time of the election, exceed £30,000 or such other sum as may from time to time be prescribed in an Order made under Article 131 of that Law.
- (3) An election under paragraph (1) shall be made in such form and manner as the Committee may specify.
  - (4) The calculation of the lump sum payable under this Regulation shall be determined by the Committee after consulting the Actuary.
  - (5) Payment of the lump sum shall extinguish the member's or deferred pensioner's rights to any other benefit under the scheme, as well as the rights of any person contingently entitled to any benefit payable upon the member's or deferred pensioner's death."

## PART 4

### AMENDMENTS TO THE PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (JERSEY) REGULATIONS 1967

#### 10 The Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 amended

After Regulation 11 of the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967<sup>11</sup>, there is inserted the following Regulation –

##### **“11A Payment of lump sum not exceeding £30,000**

- (1) Subject to fulfilment of the conditions set out in paragraph (2), when a contributory member becomes entitled to payment of a retirement pension under the scheme, he or she may elect to receive in lieu of his or her retirement pension, a lump sum by way of commutation of all the benefits to which he or she is entitled under the scheme.
- (2) The conditions are that –
  - (a) a contributory member must have attained the age of 60; and
  - (b) the aggregate of –
    - (i) the value of the contributory member's accrued benefits in the fund at the time of the election, and

- 
- (ii) all lump sums that the contributory member has previously elected to receive under Article 5(2D) of the Income Tax (Superannuation Funds) (Jersey) Order 1972<sup>12</sup>, or under Article 131B(3)(f) or Article 131CA(4)(g) of the Income Tax (Jersey) Law 1961<sup>13</sup>,  
must not, at the time of the election, exceed £30,000 or such other sum as may from time to time be prescribed in an Order made under Article 131 of that Law.
- (3) An election under paragraph (1) shall be made in such form and manner as the Committee of Management may specify.
- (4) The calculation of the lump sum payable under this Regulation shall be determined by the Committee of Management after consulting the Actuary.
- (5) Payment of the lump sum shall extinguish the contributory member's rights to any other benefit under the scheme, as well as the rights of any person contingently entitled to any benefit payable upon the contributory member's death.”.

## **PART 5**

### **CLOSING**

#### **11 Citation and commencement**

These Regulations may be cited as the Public Employees (Contributory Retirement Scheme) (Commutation of Small Pensions – Amendments) (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
  - 3* chapter 24.750
  - 4* chapter 24.750.60
  - 5* chapter 16.650.60
  - 6* chapter 24.750
  - 7* chapter 24.750.60
  - 8* chapter 16.650.24
  - 9* chapter 24.750.60
  - 10* chapter 24.750
  - 11* chapter 16.650.48
  - 12* chapter 24.750.60
  - 13* chapter 24.750