

STATES OF JERSEY



DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (MISCELLANEOUS AMENDMENTS) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 20th July 2015
by the States Employment Board**

STATES GREFFE



Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (MISCELLANEOUS AMENDMENTS) (JERSEY) REGULATIONS 201-

REPORT

INTRODUCTION

The States Employment Board, at its meeting on 13th July 2015, agreed to promote the following amendments to the Public Employees Contributory Retirement Scheme Regulations that were made in 1989.

The Draft Public Employees (Contributory Retirement Scheme) (Miscellaneous Amendments) (Jersey) Regulations 201- (“the draft Regulations”) will make changes to the Public Employees Contributory Retirement Scheme (PECRS) Regulations to remove the eligibility restrictions on membership, to increase the capital value of the deferred benefits which a member can commute into a lump sum, and to change the provisions around refund of contributions to bring them in line with recent changes in the Income Tax (Jersey) Law 1961 (“the Tax Law”).

The draft Regulations would primarily amend the PECRS New Members Regulations 1989 to allow a person access into the Scheme where they are currently disbarred due to eligibility restrictions (i.e. under age 20 and over age 60 and those with contracts of less than 6 months’ duration) set out in the Regulations. This amendment will allow those who are currently restricted, the opportunity to join the Scheme from the date the changes are made.

The draft Regulations will also make changes to the pensionable service limit which allows members to take a refund of their contributions on leaving the Scheme. The Tax Law states that the maximum pensionable service a person may have in order to take a refund is 5 years. The change will mean that members with more than 5 years’ pensionable service will not be able to take a refund of their contributions, but those with less than 5 years’ pensionable service will.

The Regulations will also make amendments to the PECRS Existing Members Regulations 1989 and the PECRS New Members Regulations 1989 to increase the deferred lump sum commutation to allow members to commute their deferred benefits where their capital value is no more than £18,000.

Tax guidance states that the changes have to be made either within 3 years of the Tax Law amendments coming into force, or whenever any other amendments to the Scheme rules are being made, whichever is the earliest.

THE DRAFT REGULATIONS

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

Paragraph (2) of Regulation 1 of these Regulations amends the refund of contributions provision. Currently, the Existing Members Regulations contain two provisions in relation to refund of contributions. The first provision allows a person to take a refund of contributions where they have less than 2 years' service, and the second provision allows a person with more than 2 years' service to request a refund of all of their contributions. The Tax Law now states that the maximum service a person can have in order to claim a refund is 5 years, and the ability to request a refund where a member has more than 2 years has been removed.

Paragraph (3) of Regulation 1 of these Regulations amends the amount of deferred benefits a person can commute into a lump sum. The Committee of Management ("the Committee") of the PECRS requested that the current limit by which a person can commute their deferred benefits into a lump sum be increased from £5,000 to £18,000. This increase was agreed by the Chief Minister. This amendment will allow members who have deferred benefits to choose to commute those benefits into a lump sum not exceeding £18,000. This change now matches the maximum limit allowed under Article 131(13) of the Tax Law.

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

This Regulation amends the refund of contributions provision. Currently, the Former Hospital Scheme Regulations allow for a person to request a refund of all of their contributions no matter how much service they have in the Scheme. The Tax Law now states that the maximum service a person can have in order to take a refund of their contributions is 5 years, so the ability to request a refund has been removed. The PECRS Former Hospital Scheme has been closed since 1992, and there are no members under these Regulations with pensionable service of less than 5 years.

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

This Regulation also amends the refund of contributions provision. Currently, the 1967 Regulations allow for a person to request a refund of all of their contributions, no matter how much service they have in the Scheme. The Tax Law now states that the maximum service a person can have in order to take a refund of their contributions is 5 years, so the ability to request a refund has been removed. The PECRS 1967 Scheme has been closed since 1989, and there are no members under these Regulations with pensionable service of less than 5 years.

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

The amendment to the New Members Regulations 1989 is the removal of the eligibility restrictions in order to join PECRS. Currently, the New Members Regulations disbar any employee who is under 20 years of age, or within 5 years of their normal retiring age (usually 65) or on a fixed term contract of less than 6 months from being able to join the Scheme. If these members remain disbarred, they would immediately face joining the Public Employees' Pension Scheme (PEPS) Career Average Revalued Earnings (CARE) Scheme on 1st January 2016 and pay the higher rate of contributions, whereas all eligible members of PECRS will transition into PEPS as at 1st January 2019 and the higher rate of contributions will be phased in over 3–5 years. Please note that the closure of the PECRS 1967 Scheme and the

introduction of the new PEPS CARE scheme as at 1st January 2016 is subject to States debate and approval, which will take place later this year.

Paragraph (2) in this Regulation amends the definition of “employee” to remove the eligibility requirement for an employee to be on a fixed-term contract of at least 6 months in duration. Paragraph (3) removes the eligibility requirement for an employee to be age 20 or over or within 5 years of their Normal Retiring Age, and allows a person to become a member of the PECRS under the New Member Regulations from the date their employment begins.

Paragraph (4) in this Regulation amends the refund of contributions provision. Currently, the New Members Regulations contain two provisions in relation to refund of contributions. One provision allows for a person who was employed after 1st August 2000 to take a refund of contributions where that member has less than 2 years’ service, and the other provision allows a person employed before 1st August 2000 with more than 2 years’ service to request a refund of all of their contributions. As the Tax Law now states that the maximum service a person can have before taking a refund is 5 years, the ability to request a refund where a member has more than 2 years has been removed.

Paragraph (5) in this Regulation amends the amount of deferred benefits a person can commute into a lump sum. As with the amendment being made to the Existing Members Regulations, the Committee of Management also requested that the current limit a member can commute from their deferred benefits into a lump sum under the New Members Regulations be increased from £5,000 to £18,000. This increase was also agreed by the Chief Minister and the States Employment Board. This amendment will allow members who have deferred benefits to choose to commute those benefits to a lump sum not exceeding £18,000. This change now matches the maximum limit allowed under Article 131(13) of the Tax Law.

PREPARING FOR IMPLEMENTATION

The preceding draft Regulations will come into force on 7 days after they are made to ensure that some members who are currently disbarred have the ability to join the PECRS before 1st January 2016, when the scheme is effectively closed to new membership.

Please note that the closure of the PECRS 1967 Scheme and the introduction of the new PEPS CARE scheme as at 1st January 2016 is subject to States debate and approval which will take place later this year.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of these draft Regulations.

Explanatory Note

These draft Regulations would amend 4 sets of Regulations which regulate the operation of the Public Employees Contributory Retirement Scheme (“PECRS”) established under the Public Employees (Retirement) (Jersey) Law 1967. The general effects of the amendments would be as follows –

- to bring the period within which a person is entitled to claim a refund of all of his or her pension contributions into line with the Income Tax (Jersey) Law 1961 (the “Income Tax Law”);
- to bring the current cap on the amount by which a small pension pot may be converted into a lump sum, into line with the Income Tax Law; and
- to remove certain eligibility restrictions to becoming a member of PECRS.

Regulation 1 would amend Regulations 8 and 16A of the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989 (the “Existing Members Regulations”). Regulation 8 currently enables a person who leaves PECRS, having completed 2 or more years’ service, to claim a full refund of his or her pension contributions. The effect of Article 131(12) of the Income Tax Law is that a person may only claim a refund of contributions, on ceasing employment, if he or she has been a member of a pension scheme such as PECRS for less than 5 years. Any refunds of contributions presently given to members of PECRS under the Existing Members Regulations who have accrued service in excess of 5 years, would be in breach of the Income Tax Law. Accordingly, the amendments made by *Regulation 1(2)* would remove the provisions enabling the refund of contributions where more than 2 years’ service has been completed.

Regulation 1(3) would replace current Regulation 16A with a new Regulation 16A which would mirror the provisions of Article 131(13) and (14) of the Income Tax Law and would mean that the current threshold for the conversion into a lump sum of a small pension pot of a value not exceeding £5,000, is extended up to a value of £18,000.

Regulation 2 would amend Regulation 8 of the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992 (the “FHS Regulations”), relating to the refund of contributions. For the reasons explained in relation to *Regulation 1(2)*, *Regulation 2(2)* would remove all the provisions in Regulation 8 enabling the refund of contributions as any PECRS members who are subject to the FHS Regulations will have accrued service in excess of 5 years.

Regulation 3 would, in relation to the refund of contributions, remove Regulation 12, and consequentially amend Regulation 13 of the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 for the same reasons given in relation to *Regulations 1(2)* and *2(2)*.

Regulation 4 would amend the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989 (the “New Members Regulations”). *Regulation 4(2)* and *(3)* would amend Regulations 1 and 2 of the New Members Regulations so as to remove provisions which currently restrict employees who are on fixed term contracts of 6 months or less, or who are under the age of 20 or within 5 years of normal retiring age, from becoming members of PECRS. *Regulation 4(4)* would amend Regulation 8 of the New Members Regulations so that refunds of contributions would only be permitted in respect of persons who have accrued not

more than 2 years' membership of PECRS. *Regulation 4(5)* would replace Regulation 16A so as to increase the present £5,000 small pension lump sum conversion threshold to £18,000 in line with the Income Tax Law.

Regulation 5 gives the title of these Regulations and provides for their coming into force 7 days after they are made.



Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (MISCELLANEOUS AMENDMENTS) (JERSEY) REGULATIONS 201-

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Jersey

DRAFT PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (MISCELLANEOUS 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 1967¹, have made the following Regulations –

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) In Regulation 8 –
 - (a) in paragraph (1) –
 - (i) in sub-paragraph (a), after the word “earlier;” there is added the word “or”,
 - (ii) for sub-paragraph (b) there is substituted the following sub-paragraph –

“(b) to request a transfer value payable in accordance with Regulation 7 of the General Regulations.”,
 - (iii) sub-paragraph (c) is deleted;
 - (b) in paragraph (3), for the words “Where a member to whom this Regulation applies” there are substituted the words “Where a member to whom paragraph (2) applies”;
 - (c) paragraphs (6) to (8) are deleted.
- (3) For Regulation 16A, there is substituted the following Regulation –

“16A Conversion of pension into lump sum not exceeding £18,000

- (1) A deferred pensioner may apply to the Treasurer to receive a lump sum by way of exchange of the capital value of all his or her deferred pension under the scheme provided that at the time the application is made –

- (a) the deferred pensioner has not commenced drawing his or her deferred pension;
 - (b) the deferred pensioner's employer is not making any contributions on his or her behalf to another approved Jersey scheme; and
 - (c) the value of the deferred pensioner's deferred pension under the scheme does not exceed £18,000.
- (2) An exchange under paragraph (1) is not permitted where the capital value of the member's deferred pension includes any amount transferred from a 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).
 - (3) An application under paragraph (1) shall be made in such form and manner as the Treasurer 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 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 the deferred pensioner's death.
 - (6) In this Regulation 'approved Jersey scheme' has the meaning given in Article 130 of the Income Tax Law."

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 1992³ are amended in accordance with this Regulation.
- (2) In Regulation 8 –
 - (a) in the heading, the words “, refund of contributions” are deleted;
 - (b) in paragraph (1) –
 - (i) in sub-paragraph (a), after the words “paragraph (3);” there is inserted the word “or”,
 - (ii) for sub-paragraph (b) there is substituted the following sub-paragraph –
“(b) to request a transfer a transfer value payable in accordance with Regulation 7 of the General Regulations.”,
 - (iii) sub-paragraph (c) is deleted;
 - (c) in paragraph (2), the words “to a refund of the member's contributions to the scheme calculated in accordance with paragraph (4) or” are deleted;
 - (d) paragraphs (4), (5) and (6) are deleted.

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

- (1) The Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967⁴ are amended in accordance with this Regulation.
- (2) In Regulation 7 –
 - (a) for paragraph (3) there is substituted the following paragraph –

“(3) In calculating the number of completed years of service, no account shall be taken of any service in respect of which a refund or a transfer value has been paid under –

 - (a) Regulation 12 before its repeal by the Public Employees (Contributory Retirement Scheme) (Miscellaneous Amendments) (Jersey) Regulations 201-⁵; or
 - (b) original Regulation 14 before its repeal by the Public Employees (Contributory Retirement Scheme) (Amendment No. 11) (Jersey) Regulations 1989⁶.”;
 - (b) in paragraph (4C), the words “a refund of contributions or” are deleted.
- (3) In Regulation 11, the words “the benefit payable under Regulation 12 of these Regulations or” are deleted.
- (4) Regulation 12 is repealed.
- (5) In Regulation 13, the words “, in addition to receiving any refund of contributions by virtue of Regulation 12 of these Regulations,” are deleted.

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 1989⁷ are amended in accordance with this Regulation.
- (2) In Regulation 1, in paragraph (b) of the definition “employee”, the words “of at least 6 months in duration which is, with the consent of the Chief Minister, expressed to be pensionable” are deleted.
- (3) In Regulation 2 –
 - (a) for paragraph (1), there is substituted the following paragraph –

“(1) Subject to the provisions of this Regulation and the provisions of the General Regulations, an employee shall become a member of the scheme from the date his or her employment begins.”;
 - (b) paragraphs (4), (8)(d) and (9)(a) are deleted.
- (4) In Regulation 8 –
 - (a) in paragraph (1), for the words “This Regulation applies” there are substituted the words “This paragraph applies”;
 - (b) in paragraph (1A) –

- (i) for the words “The member shall” there are substituted the words “A member to whom paragraph (1) applies shall”,
 - (ii) in sub-paragraph (a)(ii), after the words “65 years;” there is added the word “or”,
 - (iii) for sub-paragraph (b) there is substituted the following sub-paragraph –
“(b) to request a transfer value payable in accordance with Regulation 7 of the General Regulations.”,
 - (iv) sub-paragraph (c) is deleted;
 - (c) in paragraph (3), for the words “Where a member to whom this Regulation applies” there are substituted the words “Where a member to whom paragraph (2) applies”;
 - (d) paragraphs (6) and (8) are deleted.
- (5) For Regulation 16A, there is substituted the following Regulation –

“16A Conversion of pension into lump sum not exceeding £18,000

- (1) A deferred pensioner may apply to the Treasurer to receive a lump sum by way of exchange of the capital value of all his or her deferred pension under the scheme provided that at the time the application is made –
 - (a) the deferred pensioner has not commenced drawing his or her deferred pension;
 - (b) the deferred pensioner’s employer is not making any contributions on his or her behalf to another approved Jersey scheme; and
 - (c) the value of the deferred pensioner’s deferred pension under the scheme does not exceed £18,000.
- (2) An exchange under paragraph (1) is not permitted where the capital value of the deferred pensioner’s deferred pension includes any amount transferred from a 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).
- (3) An application under paragraph (1) shall be made in such form and manner as the Treasurer 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 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 the deferred pensioner’s death.
- (6) In this Regulation ‘approved Jersey scheme’ has the meaning given in Article 130 of the Income Tax Law.”.

5 Citation and commencement

These Regulations may be cited as the Public Employees (Contributory Retirement Scheme) (Miscellaneous Amendments) (Jersey) Regulations 201- and shall come into force 7 days after the day they are made.

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- ¹ *chapter 16.650*
 - ² *chapter 16.650.12*
 - ³ *chapter 16.650.24*
 - ⁴ *chapter 16.650.48*
 - ⁵ *P.79/2015*
 - ⁶ *R&O.7957*
 - ⁷ *chapter 16.650.60*