

STATES OF JERSEY



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

**Lodged au Greffe on 30th November 2018
by the States Employment Board**

STATES GREFFE



Jersey

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

REPORT

Introduction

The Public Employees (Pension Scheme) Regulations, which introduced the Career Average Pension Scheme, were adopted by the States in November 2015. Prior to lodging, this legislation it was reviewed by the Scheme Actuary, the Law Officers' Department and officers of the States Treasury and Exchequer. All parties agreed the draft Regulations for lodging but highlighted that once in operation there may be need for amendment to ensure that the Regulations support the day to day administration of the Scheme.

During the last 3 years a number of minor technical changes to the regulations have been identified which will improve clarity. These 4 technical amendments are some of the amendments that are required in order to clarify provisions regarding members who have had to move from the Final Salary Scheme of the Public Employees Pension Fund (PEPF) to the Career Average Scheme.

Technical amendments

Detailed below are 4 amendments to the legislation governing the Career Average Scheme.

[Public Employees \(Pension Scheme\) \(Administration\) \(Jersey\) Regulations 2015](#)

Regulation 22 – Transfer out of fund

As a consequence of allowing a member to transfer out their Final Salary Scheme benefit whilst remaining a member of the Career Average Scheme, an amendment is required to ensure that the member retains their rights to Career Average Scheme benefits following the transfer.

[Public Employees \(Pension Scheme\) \(Membership and Benefits\) \(Jersey\) Regulations 2015](#)

Regulation 4 – Meaning of “Pensionable Earnings”

An amendment is required to the Career Average Scheme to clarify that payments of a temporary nature are not classed as pensionable earnings. This will ensure there is no potential misinterpretation between the Final Salary Scheme and the Career Average Scheme around which payments are pensionable.

[Public Employees \(Pension Scheme\) \(Transitional Provisions, Savings and Consequential Amendments\) \(Jersey\) Regulations 2015](#)

Regulation 9 – Calculation of Final Pensionable Earnings

To ensure that the highest final pensionable salary for a transition member is assessed over 10 years prior to that member leaving service, an amendment is required to remove reference to the first commencement date, 1st January 2016, which is the date the legislation currently calculates back to.

Regulation 15 – Transfer Payments

This amendment will allow transition members who reach their normal retiring age under the Final Salary Scheme to transfer out those benefits should they wish to do so. This option is currently possible for members who choose to remain a member of the Final Salary Scheme and this amendment will enable those members who transition into the Career Average Scheme the same rights.

Financial and manpower implications

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

Explanatory Note

These Regulations, if passed, would amend the Public Employees (Pension Scheme) (Administration) (Jersey) Regulations 2015 (the “Administration Regulations”); the Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015 (the “Benefits Regulations”); and the Public Employees (Pension Scheme) (Transitional Provisions, Savings and Consequential Amendments) (Jersey) Regulations 2015 (the “Transitional Regulations”). A definition is amended in the Benefits Regulations and in the Transitional Regulations, provisions about the calculation of final pensionable earnings and transfer-out of retirements benefits accrued under the 1967 Public Employees Contributory Retirement Scheme (“PECRS”), are amended. The respective amendments would have retrospective effect to 1st January 2019. Retrospective provision is permitted under Article 2(3)(d) of the Public Employees (Pensions) (Jersey) Law 2014 (the “Pensions Law”).

Regulation 1 makes a minor amendment to Regulation 22 (transfers out) of the Administration Regulations which is consequential to the amendments made by *Regulation 3* relating to Regulation 15 (transfer payments) of the Transitional Regulations.

Regulation 2 amends the definition of “pensionable earnings” in Regulation 4 of the Benefits Regulations so that any payments of a temporary nature are included in the list of earnings which are not pensionable.

Regulation 3 amends Regulations 1, 9 and 15 of the Transitional Regulations. A definition in Regulation 1(2)(b) is amended as a consequence of the amendment of Regulation 9(3)(b) and (c) which enables the calculation of final pensionable earnings to take into account a transition member’s (as defined in Regulation 1(1)) salary earned in the period in which he or she was a member of the PECRS. Regulation 15 is amended so that a transition member who has attained normal retiring age (as defined in Regulation 1(2)(b)) may request a transfer out of his or her PECRS retirement benefits notwithstanding that he or she remains employed and accruing benefits under Public Employees Pension Scheme (established under the Pensions Law).

Regulation 4 provides for the title of these Regulations and for their coming into force immediately upon being passed by the States.



Jersey

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Arrangement

Regulation

1	Amendment of Regulation 22 (transfers out) of the Public Employees (Pension Scheme) (Administration) (Jersey) Regulations 2015	9
2	Amendment of Regulation 4 (meaning of “pensionable earnings”) of the Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015	9
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DRAFT PUBLIC EMPLOYEES (PENSION SCHEME) (MISCELLANEOUS AMENDMENTS) (JERSEY) REGULATIONS 201-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES make the following Regulations under Article 2 of the Public Employees (Pensions) (Jersey) Law 2014¹ –

1 Amendment of Regulation 22 (transfers out) of the Public Employees (Pension Scheme) (Administration) (Jersey) Regulations 2015

In Regulation 22 of the Public Employees (Pension Scheme) (Administration) (Jersey) Regulations 2015², for paragraph (3) there is substituted –

- “(3) Up to and including 31st December 2018, where a transfer payment is paid out of the fund under this Regulation, that payment extinguishes the person’s rights to any other benefits under the respective schemes, as well as the rights of any person contingently entitled to any benefit payable upon that person’s death.
- (4) From 1st January 2019, where a transfer payment is paid out of the fund under this Regulation, that payment extinguishes the person’s rights to any other benefits under the 1967 Scheme or the Scheme, as the case may be, as well as the rights of any person contingently entitled to any benefit payable upon that person’s death.”.

2 Amendment of Regulation 4 (meaning of “pensionable earnings”) of the Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015

In Regulation 4(2) of the Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015³ –

- (a) in sub-paragraph (f) for “; or” there is substituted “;”;
- (b) in sub-paragraph (g) for “benefits.” there is substituted “benefits; or”;
- (c) after sub-paragraph (g) there is inserted –
 - “(h) from 1st January 2019, any payment of a temporary nature.”.

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

- (1) The Public Employees (Pension Scheme) (Transitional Provisions, Savings and Consequential Amendments) (Jersey) Regulations 2015⁴ are amended under paragraphs (2), (3) and (4).
- (2) In Regulation 1 (interpretation) –
 - (a) in paragraph (1) –
 - (i) after the definition “pensioner member” there is inserted –
““pensionable earnings” has, with effect from 1st January 2019, the same meaning as in Regulation 4 of the Membership and Benefits Regulations;”,
 - (ii) in the definition “pensionable service”, after “qualifies” there is inserted “a”;
 - (b) in paragraph (2)(b), for “the expression “normal retiring age” when used in relation to a transition member, has the meaning assigned to that expression”, there is substituted “the expressions “normal retiring age”, and with effect from 1st January 2019 “salary”, when used in relation to a transition member, have the meaning assigned to those expressions”.
- (3) In Regulation 9 (calculation of final pensionable earnings), for paragraph (3) there is substituted –
“(3) With effect from 1st January 2019, where paragraph (2) applies, a transition member’s final pensionable earnings for the purposes of Article 11(2)(b), (3) and (4)(a) of the Law, must be calculated by reference to –
 - (a) in the case of a transition member who has completed 10 or more years’ pensionable service under the Scheme, the highest of that member’s pensionable earnings over 365 consecutive days in the 10 years prior to, and ending on the relevant date;
 - (b) in the case of a transition member who has completed less than 10 years’ pensionable service under the Scheme but 10 or more years’ pensionable service in aggregate under the respective schemes, the highest of that member’s pensionable earnings or salary over 365 consecutive days in the 10 years prior to, and ending on the relevant date; or
 - (c) in the case of a transition member who has completed less than 10 years’ pensionable service in aggregate under the respective schemes, the highest of that member’s pensionable earnings or salary over 365 consecutive days beginning with the year in which the transition member commenced his or her last or only period of employment, and ending on the relevant date.”.
- (4) In Regulation 15 (transfer payments) –

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- (a) in paragraph (1) for “Where,” there is substituted, “With effect from 1st January 2019, subject to paragraphs (1A) and (1B), where”;
 - (b) after paragraph (1) there is inserted –
 - “(1A) With effect from 1st January 2019, this paragraph applies to a transition member who has attained his or her normal retiring age but who remains in Scheme employment.
 - (1B) Notwithstanding that a transition member to whom paragraph (1A) applies has not ceased active membership of the Scheme, he or she may apply for a transfer payment, under Regulation 22 of the Administration Regulations, of his or her retirement benefits accrued under the 1967 Scheme.”;
 - (c) for paragraphs (2) and (3) there is substituted –
 - “(2) With effect from 1st January 2019, this paragraph applies where, before the transition date, a member of the 1967 Scheme has requested the Administrator to accept a transfer payment under Regulation 23(3) of the Administration Regulations but the Administrator does not receive that transfer payment until on, or after the transition date.
 - (3) Where paragraph (2) applies, the transfer payment received must be dealt with in accordance with Regulation 23(4)(a) and (b)(ii) and (5) of the Administration Regulations.”.

4 Citation and commencement

These Regulations may be cited as the Public Employees (Pension Scheme) (Miscellaneous Amendments) (Jersey) Regulations 201- and come into force immediately upon being made.

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- ¹ *chapter 16.640*
² *chapter 16.640.10*
³ *chapter 16.640.30*
⁴ *chapter 16.640.70*