



Jersey

PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (COMPENSATORY ADDED YEARS) (AMENDMENTS) (JERSEY) REGULATIONS 2019

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Public Employees (Contributory Retirement Scheme)
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Jersey

PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (COMPENSATORY ADDED YEARS) (AMENDMENTS) (JERSEY) REGULATIONS 2019

Made

18th June 2019

Coming into force

25th June 2019

THE STATES make the following Regulations under Article 2 of the Public Employees (Retirement) (Jersey) Law 1967¹ –

PART 1

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

1 Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967 amended

The Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967² are amended under this Part.

2 Regulation 1 (interpretation) amended

In Regulation 1(1) –

- (a) in the definition “average salary” and in clauses (i) to (iii) of the proviso of that definition, for “preceding” there is substituted “before and including”;
- (b) after the definition “employer” there is inserted –
 - ““employer-initiated salary reduction” means, in relation to a contributory member’s salary, the application of a reduction to that salary by an employer as a result of –
 - (a) a workforce or other organisational restructure affecting that contributory member’s employment; or

- (b) a re-evaluation of any salary scale or structure that may apply in respect of that contributory member’s employment;”;
- (c) after the definition “salary” there is inserted –
 - ““salary reduction date” means the date an employer-initiated salary reduction is applied;”.

3 Regulation 7 (retirement pension) amended

In Regulation 7 –

- (a) in paragraph (2), for “Subject to paragraph (3)” there is substituted “Subject to paragraphs (2A) (2B) and (3)”;
- (b) after paragraph (2) there is inserted –
 - “(2A) Paragraph (2B) applies where –
 - (a) an employer-initiated salary reduction is applied to a contributory member’s salary; and
 - (b) the member is awarded added years of service under Regulation 15A.
 - (2B) Where this paragraph applies –
 - (a) the contributory member’s salary for each year of service before an employer-initiated salary reduction is applied is to be disregarded for the purposes of calculating the annual rate of retirement pension under paragraph (2); and
 - (b) for the purposes of that calculation under paragraph (2), the contributory member’s average salary is determined for each description of case set out in column 1 of the following table, by reference to the corresponding method of calculation set out in column 2 of that table –

1 Description of case	2 Method of calculation
Case A: contributory member – (a) leaves service earlier than normal retiring age but 3 or more years’ after the salary reduction date; or (b) attains normal retiring age 3 or more years after the salary reduction date.	Average salary is determined by reference to the contributory member’s – average salary for each year of service in the 3 years immediately before, and ending on the day on which he or she leaves service or attains normal retiring age, whichever is the earlier.

<p>Case B: contributory member –</p> <p>(a) leaves service earlier than normal retiring age but less than 3 years’ but more than one year after the salary reduction date; or</p> <p>(b) attains normal retiring age less than 3 years’ but more than one year after the salary reduction date.</p>	<p>Average salary is determined by reference to the contributory member’s –</p> <p>average salary for each year of service after the salary reduction date, and ending on the day on which he or she leaves service or attains normal retiring age, whichever is the earlier.</p>
<p>Case C: contributory member –</p> <p>(a) leaves service earlier than normal retiring age but one year or less after the salary reduction date; or</p> <p>(b) attains normal retiring age one year or less after the salary reduction date.</p>	<p>Average salary is determined by reference to the contributory member’s –</p> <p>whole year equivalent salary for that year or part-year of service after the salary reduction date, and ending on the day on which he or she leaves service or attains normal retiring age, whichever is the earlier.”.</p>

(c) for paragraph (3), there is substituted –

“(3) For the purpose of calculating the number of completed years of service, the maximum number of years of service referred to in paragraph (2) and that paragraph as modified by Regulations 17(b), 18(b), 19(b), 20(1)(c) and (2)(c) and 20A(c), are to be disregarded in respect of service attributable to –

(a) a refund or a transfer value paid under –

- (i) Regulation 12 before its repeal by the Public Employees (Contributory Retirement Scheme) (Miscellaneous Amendments) (Jersey) Regulations 2015³, or
- (ii) original Regulation 14 before its repeal by the Public Employees (Contributory Retirement Scheme) (Amendment No. 11) (Jersey) Regulations 1989⁴; or

(b) any additional period of service awarded under Regulation 15A.”.

4 Regulation 15 (reduction of salary) amended

In Regulation 15 –

- (a) in paragraph (1) for “In any case” there is substituted “Subject to paragraph (4), in any case”;
- (b) after paragraph (3) there is inserted –

- “(4) This Regulation does not apply where the contributory member’s salary is reduced as a result of an employer-initiated salary reduction.”.

5 Regulation 15A inserted

After Regulation 15 there is inserted –

“15A Award of additional service

- (1) Subject to paragraph (3), this Regulation has effect where an employer-initiated salary reduction is applied to a contributory member’s salary.
- (2) The employer must, by way of compensation for the detriment caused to that member’s pension as a result of the reduction, award the member with such additional period of service as is determined by the Actuary having regard, amongst other things, to –
 - (a) the amount of service accrued by the member immediately before the salary reduction date; and
 - (b) the member’s salary received before the salary reduction date and on and after that date.
- (3) This Regulation does not have effect where an employer-initiated salary reduction is applied in the case of a member who has attained normal retiring age but has not left service.”.

6 Regulation 20 (members of the Police Force and Fire Service, and Prison Governor) amended

Regulation 20(1)(f) (including its proviso) is deleted.

PART 2

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

7 Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992 amended

The Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992⁵ are amended under this Part.

8 Regulation 1 (interpretation) amended

In Regulation 1 –

- (a) after the definition “employer” there is inserted –

- ““employer-initiated salary reduction” means in relation to a member’s salary, the application of a reduction to that salary by an employer as a result of –
- (a) a workforce or other organisational restructure affecting that member’s employment; or
 - (b) a re-evaluation of any salary scale or structure that may apply in respect of that member’s employment;”;
- (b) in the definition “final pensionable salary” for “preceding” there is substituted “before and including”;
- (c) in the definition “pensionable service” for paragraph (e) there is substituted –
- “(e) any added years of pensionable service granted to a member on account of –
 - (i) augmentation under Regulation 15,
 - (ii) a pensionable allowance giving rise to added years under Regulation 17, or
 - (iii) an employer-initiated salary reduction and awarded by way of compensation under Regulation 17A; and”;
- (d) after the definition “salary” there is inserted –
- ““salary reduction date” means the date an employer-initiated salary reduction is applied;”.

9 Regulation 3 (member’s contributions) amended

In Regulation 3 –

- (a) in paragraph (4) for “In any case” there is substituted “Subject to paragraph (5), in any case”;
- (b) after paragraph (4) there is inserted –
 - “(5) Paragraph (4) does not apply where a member’s salary is reduced as a result of an employer-initiated salary reduction.”.

10 Regulation 5 (retirement at or after normal retiring age) amended

In Regulation 5 –

- (a) for paragraph (3) there is substituted –
 - “(3) Subject to paragraphs (4) and (5), and Regulation 21, the pension payable to a male member and the pension and lump sum payable to a female member on retirement is calculated as follows –
 - (a) in the case of a male member –
 - (i) 1/60 of the member’s average salary for each year of pensionable service, and

- (ii) disregarding any added years of pensionable service credited to a member on account of a pensionable allowance under Regulation 17 or awarded by way of compensation under Regulation 17A, the member’s pensionable service cannot exceed 45 years; and
- (b) in the case of a female member –
 - (i) 1/80 of the member’s average salary for each year of pensionable service, together with a lump sum equal to 3/80 of the member’s average salary for each year of pensionable service, and
 - (ii) disregarding any added years of pensionable service credited to a member on account of a pensionable allowance under Regulation 17 or awarded by way of compensation under Regulation 17A, the member’s pensionable service cannot exceed 40 years.”.
- (b) after paragraph (3) there is inserted –
 - “(4) Paragraph (5) applies where –
 - (a) an employer-initiated salary reduction is applied to a member’s salary; and
 - (b) the member is awarded added years under Regulation 17A.
 - (5) Where this paragraph applies –
 - (a) the member’s salary received in any period before an employer-initiated salary reduction is applied is to be disregarded for the purposes of calculating the annual rate of pension under paragraph (3)(a)(i) or (b)(i); and
 - (b) for the purposes of that calculation under paragraph (3)(a)(i) or (b)(i), the member’s average salary is determined for each description of case set out in column 1 of the following table, by reference to the corresponding method of calculation set out in column 2 of that table –

1 Description of case	2 Method of calculation
Case A: member – (a) leaves service earlier than normal retiring age but 3 or more years’ after the salary reduction date; or (b) attains normal retiring age 3 or more years after the salary reduction date.	Average salary is determined by reference to the member’s – average salary for each year of service in the 3 years immediately before, and ending on the day on which he or she leaves service or attains normal retiring age, whichever is the earlier.
Case B: member – (a) leaves service earlier than normal retiring age but less than	Average salary is determined by reference to the member’s – average salary for each year of service

<p>3 years' but more than one year after the salary reduction date; or (b) attains normal retiring age less than 3 years' but more than one year after the salary reduction date.</p>	<p>after the salary reduction date, and ending on the day on which he or she leaves service or attains normal retiring age, whichever is the earlier.</p>
<p>Case C: member – (a) leaves service earlier than normal retiring age but one year or less after the salary reduction date; or (b) attains normal retiring age one year or less after the salary reduction date.</p>	<p>Average salary is determined by reference to the member's – whole year equivalent salary for that year or part-year of service after the salary reduction date, and ending on the day on which he or she leaves service or attains normal retiring age, whichever is the earlier.”.</p>

11 Regulation 17A inserted

After Regulation 17 there is inserted –

“17A Award of compensatory added years

- (1) Subject to paragraph (3), this Regulation has effect where an employer-initiated salary reduction is applied to a member's salary.
- (2) The employer must, by way of compensation for the detriment caused to that member's pension as a result of the reduction, award the member with such added years of pensionable service as is determined by the Actuary having regard, amongst other things, to –
 - (a) the amount of service accrued by the member immediately before the salary reduction date; and
 - (b) the member's salary received before the salary reduction date, and on and after that date.
- (3) This Regulation does not have effect where an employer-initiated salary reduction is applied in the case of a member who has attained normal retiring age but has not left service.”.

PART 3**AMENDMENTS TO THE PUBLIC EMPLOYEES (CONTRIBUTORY
RETIREMENT SCHEME) (EXISTING MEMBERS) (JERSEY)
REGULATIONS 1989****12 Public Employees (Contributory Retirement Scheme) (Existing Members)
(Jersey) Regulations 1989 amended**

The Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989⁶ are amended under this Part.

13 Regulation 1 (interpretation) amended

In Regulation 1 –

- (a) for the definition “added years” there is substituted –
- “ “added years” means such period of additional pensionable service as may be granted to a member on account of –
 - (a) any refund paid or transfer value received, as referred to in repealed Regulation 7 of the General Regulations or transfer payment under Regulation 23 of the Administration Regulations;
 - (b) any additional voluntary contributions (and related employer contributions) paid under Regulation 3;
 - (c) augmentation pursuant to Regulation 17;
 - (d) in the case of a member referred to in Regulation 2(3)(a), any special contributions paid under arrangements made whilst a member of the Former Hospital Scheme;
 - (e) any pensionable allowance; and
 - (f) an employer-initiated salary reduction and awarded by way of compensation under Regulation 19A;”;
- (b) after the definition “employer” there is inserted –
- “ “employer-initiated salary reduction” means, in relation to a member’s salary, the application of a reduction to that salary by an employer as a result of –
 - (a) a workforce or other organisational restructure affecting that member’s employment; or
 - (b) a re-evaluation of any salary scale or structure that may apply in respect of that member’s employment;”;
- (c) in the definition “final pensionable salary” for “preceding” there is substituted “before and including”;
- (d) after the definition “salary” there is inserted –
- “ “salary reduction date” means the date an employer-initiated salary reduction is applied;”.

14 Regulation 3 (member's contributions) amended

In Regulation 3 –

- (a) in paragraph (7) for “In any case” there is substituted “Subject to paragraph (9), in any case”;
- (b) after paragraph (8) there is inserted –
 - “(9) Paragraph (7) does not apply where a member's salary is reduced as a result of an employer-initiated salary reduction.”.

15 Regulation 5 (retirement at or after normal retiring age) amended

In Regulation 5 –

- (a) for paragraph (1) there is substituted –
 - “(1) Subject to paragraphs (3) and (4), and Regulation 17 of the General Regulations, on retirement from service at, or after normal retiring age a member is entitled to receive a pension calculated as follows –
 - (a) in the case of a category A member or a category B member –
 - (i) the annual rate of pension is 1/45 of the member's average salary for each completed year (and pro rata for completed days) of pensionable service, and
 - (ii) disregarding any added years credited on account of a pensionable allowance under Regulation 18 or awarded by way of compensation under Regulation 19A, the member's pensionable service cannot exceed 35 years;
 - (b) in the case of any other member –
 - (i) the annual rate of pension is 1/60 of the member's average salary for each completed year (and pro rata for completed days) of pensionable service, and
 - (ii) disregarding any added years credited on account of a pensionable allowance under Regulation 18 or awarded by way of compensation under Regulation 19A, the member's pensionable service cannot exceed 45 years.”;
- (b) after paragraph (2) there is inserted –
 - “(3) Paragraph (4) applies where –
 - (a) an employer-initiated salary reduction is applied to a member's salary; and
 - (b) the member is awarded added years under Regulation 19A.
 - (4) Where this paragraph applies –

- (a) the member's salary received in any period before an employer-initiated salary reduction is applied is to be disregarded for the purposes of calculating the annual rate of pension under paragraph (1)(a)(i) or (b)(i); and
- (b) for the purposes of that calculation under paragraph (1)(a)(i) or (b)(i), the member's average salary is –
 - (i) in the case of a member who retires from service 3 or more years after the salary reduction date, that member's final pensionable salary received on and after the salary reduction date during the best successive 365 days in the 3 years immediately before, and ending on the day on which he or she retires from service;
 - (ii) in the case of a member who retires from service less than 3 years' but more than one year after the salary reduction date, that member's final pensionable salary received on and after the salary reduction date during the best successive 365 days in the period commencing on the salary reduction date and ending on the day on which he or she retires from service; or
 - (iii) in the case of a member who retires from service one year or less after the salary reduction date, that member's final pensionable salary received on and after the salary reduction date, divided by the number of days for which the member received that salary multiplied by 365, and ending on the day on which he or she retires from service.”.

16 Regulation 7 (retirement before normal retiring age – ill-health) amended

In Regulation 7 –

- (a) in column (1) of the table in paragraph (2)(a), for “added years under Regulation 3 or 19” there is substituted “added years under Regulation 3, 19 or 19A”;
- (b) in paragraph (2)(e)(iii) for “and any pensionable allowance giving rise to added years of service under Regulation 19” there is substituted “, any pensionable allowance giving rise to added years of pensionable service under Regulation 19 and any added years awarded by way of compensation under Regulation 19A”.

17 Regulation 19A inserted

After Regulation 19 there is inserted –

“19A Award of compensatory added years

- (1) This Regulation has effect where an employer-initiated salary reduction is applied to a member’s salary.
- (2) The employer must, by way of compensation for the detriment caused to that member’s pension as a result of the reduction, award the member with such added years as is determined by the Actuary having regard, amongst other things, to –
 - (a) the amount of service accrued by the member immediately before the salary reduction date; and
 - (b) the member’s salary received in the period before the salary reduction date, and on and after that date.”.

PART 4

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

**18 Public Employees (Contributory Retirement Scheme) (New Members)
(Jersey) Regulations 1989 amended**

The Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989⁷ are amended under this Part.

19 Regulation 1 (interpretation) amended

In Regulation 1 –

- (a) in the definition “added years” –
 - (i) for “notional” there is substituted “additional”,
 - (ii) for paragraphs (d) and (e) there is substituted –
 - “(d) in the case of a member referred to in Regulation 2(3)(a), any special contributions paid under arrangements made whilst a member of the Former Hospital Scheme;
 - (e) any pensionable allowance; and
 - (f) an employer-initiated salary reduction and awarded by way of compensation under Regulation 19A;”;
- (b) after the definition “employer” there is inserted –
 - ““employer-initiated salary reduction” means in relation to a member’s salary, the application of a reduction to that salary by an employer as a result of –
 - (a) a workforce or other organisational restructure affecting that member’s employment; or

- (b) a re-evaluation of any salary scale or structure that may apply in respect of that member's employment;"
- (c) in the definition "final pensionable salary" for "preceding" there is substituted "before and including";
- (d) after the definition "salary" there is inserted –
 - " "salary reduction date" means the date an employer-initiated salary reduction is applied;"

20 Regulation 3 (member's contributions) amended

In Regulation 3 –

- (a) in paragraph (7) for "In any case" there is substituted "Subject to paragraph (9), in any case";
- (b) after paragraph (8) there is inserted the following paragraph –
 - "(9) Paragraph (7) does not apply where a member's salary is reduced as a result of an employer-initiated salary reduction."

21 Regulation 5 (retirement at or after normal retiring age) amended

In Regulation 5 –

- (a) for paragraph (1) there is substituted –
 - "(1) Subject to paragraphs (3) and (4), and Regulation 17 of the General Regulations, on retirement from service at or after normal retiring age, a member is entitled to receive a pension calculated as follows –
 - (a) in the case of a category A member or a category B member –
 - (i) the annual rate of pension is 1/45 of the member's average salary for each completed year (and pro rata for completed days) of pensionable service which relates to participation in the scheme under the 1967 Regulations or participation in the Former Hospital Scheme under the Former Hospital Scheme Rules,
 - (ii) the annual rate of pension is 1/60th of the member's average salary for each completed year (and pro rata for completed days) of pensionable service in respect of the remainder of the member's pensionable service, and
 - (iii) disregarding any added years, the member's pensionable service cannot exceed 35 years by limiting (if necessary) the member's pensionable service which counts under clause (ii);

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- (b) in the case of a category C member, the annual rate of pension is 1/70th of the member's average salary for each completed year (and pro rata for completed days) of pensionable service;
 - (c) in the case of any other member –
 - (i) the annual rate of pension is 1/60 of the member's average salary for each completed year (and pro rata for completed days) of pensionable service which relates to participation in the scheme under the 1967 Regulations or participation in the Former Hospital Scheme under the Former Hospital Scheme Rules,
 - (ii) the annual rate of pension is 1/80th of the member's average salary for each completed year (and pro rata for completed days) of pensionable service in respect of the remainder of the member's pensionable service, and
 - (iii) disregarding any added years, the member's pensionable service cannot exceed 45 years by limiting (if necessary) the member's pensionable service which counts under clause (ii).";
- (b) after paragraph (2) there is inserted –
- (3) Paragraph (4) applies where –
 - (a) an employer-initiated salary reduction is applied to a member's salary; and
 - (b) the member is awarded added years under Regulation 19A.
 - (4) Where this paragraph applies –
 - (a) the member's salary received in any period before an employer-initiated salary reduction is applied, is to be disregarded for the purposes of calculating the annual rate of pension under paragraph (1)(a)(i) and (ii), (c) or (b)(i) and (ii); and
 - (b) for the purposes of that calculation under paragraph (1)(a)(i) and (ii), (c) or (b)(i) and (ii), the member's average salary is –
 - (i) in the case of a member who retires from service 3 or more years after the salary reduction date, that member's final pensionable salary received on and after the salary reduction date during the best successive 365 days in the 3 years immediately before, and ending on the day on which he or she retires from service;
 - (ii) in the case of a member who retires from service less than 3 years' but more than one year after the salary reduction date, that member's final pensionable salary received on and after the salary reduction date during
-

- the best successive 365 days in the period commencing on the salary reduction date and ending on the day on which he or she retires from service; or
- (iii) in the case of a member who retires from service one year or less after the salary reduction date, that member's final pensionable salary received on and after the salary reduction date, divided by the number of days for which the member received that salary multiplied by 365, and ending on the day on which he or she retires from service."

22 Regulation 7 (retirement before normal retiring age – ill-health) amended

In Regulation 7 –

- (a) in column (1) of the table in paragraph (2)(a), for “added years under Regulation 3 or 19” there is substituted “added years under Regulation 3, 19 or 19A”;
- (b) in paragraph (2)(e)(iii) for “and any pensionable allowance giving rise to added years of service under Regulation 19” there is substituted “, any pensionable allowance giving rise to added years of service under Regulation 19 and any added years awarded by way of compensation under Regulation 19A”.

23 Regulation 19A inserted

After Regulation 19 there is inserted –

“19A Award of compensatory added years

- (1) This Regulation has effect where an employer-initiated salary reduction is applied to a member's salary.
- (2) The employer must, by way of compensation for the detriment caused to that member's pension as a result of the reduction, award the member with such added years as is determined by the Actuary having regard, amongst other things, to –
- (a) the amount of service accrued by the member immediately before the salary reduction date; and
- (b) the member's salary received before the salary reduction date, and on and after that date.”

PART 5

CLOSING

24 Citation and commencement

These Regulations may be cited as the Public Employees (Contributory Retirement Scheme) (Compensatory Added Years) (Amendments) (Jersey) Regulations 2019 and come into force 7 days after the day they are made.

DR. M. EGAN

Greffier of the States

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- 1 *chapter 16.650*
 - 2 *chapter 16.650.48*
 - 3 *R&O.104/2015*
 - 4 *R&O.7957*
 - 5 *chapter 16.650.24*
 - 6 *chapter 16.650.12*
 - 7 *chapter 16.650.60*