



Jersey

PUBLIC EMPLOYEES (PENSION SCHEME) (MISCELLANEOUS AMENDMENTS) (No. 2) (JERSEY) REGULATIONS 2020

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Jersey

PUBLIC EMPLOYEES (PENSION SCHEME) (MISCELLANEOUS AMENDMENTS) (No. 2) (JERSEY) REGULATIONS 2020

Made 14th July 2020
Coming into force 21st July 2020

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

PART 1

AMENDMENT OF THE PUBLIC EMPLOYEES (PENSION SCHEME) (FUNDING AND VALUATION) (JERSEY) REGULATIONS 2015

1 Public Employees (Pension Scheme) (Funding and Valuation) (Jersey) Regulations 2015 amended

This Part amends the Public Employees (Pension Scheme) (Funding and Valuation) (Jersey) Regulations 2015², and a reference to –

- (a) a Regulation by number is to the Regulation of the same number in those Regulations; and
- (b) a paragraph or sub-paragraph by number of a Schedule to those Regulations by number, is to the paragraph or sub-paragraph of the same number in that Schedule of the same number.

2 Regulation 1 (interpretation) amended

In Regulation 1 –

- (a) the definitions “1st commencement date” and “2nd commencement date” are deleted;
- (b) in paragraphs (a) and (b) of the definition “1967 Scheme employer” for “the 1st commencement date” there is substituted “1st January 2016”;
- (c) after the definition “category C member” there is inserted –
““cohabiting partner” has the meaning given in Regulation 3 of the Membership and Benefits Regulations;”;

- (d) the definition “nominated cohabiting partner” is deleted;
- (e) in the definition “prudent assumptions” for “actuarial assumptions that” there is substituted “a set of actuarial assumptions that, when taken together.”.

3 Regulation 2 (funding strategy statement) amended

In Regulation 2(3)(a) –

- (a) in clause (iii) for “the 2nd commencement date” there is substituted “1st January 2019”;
- (b) in clause (iv) “nominated” is deleted.

4 Regulation 3 (actuarial valuations) amended

In Regulation 3(7)(b)(i)(C) for “the 2nd commencement date” there is substituted “1st January 2019”.

5 Regulation 8 (annual increases in pension) amended

For Regulation 8(4) there is substituted –

- “(4) In respect of the 1967 Scheme –
 - (a) the percentage of AIRPI to be specified in the rates and adjustments certificate for the purposes of applying the annual pension increase, shall be a minimum of 0% of AIRPI up to and including a maximum of 100% of AIRPI;
 - (b) paragraph (5) applies if, during the year preceding the year in which the annual pension increase is applied –
 - (i) retirement benefits come into payment, or
 - (ii) entitlement to deferred retirement benefits (including any deferred lump sum under the 1992 Regulations) arises.
- (5) Retirement benefits referred to in paragraph (4)(b) are to be increased only by $\frac{1}{365}$ of the full annual pension increase rate for each day of payment or entitlement.”.

6 Regulation 12 (interim rates) amended

In Regulation 12(1) for “the 1st commencement date” there is substituted “1st January 2016”.

7 Regulation 13 (scheme member transitional contribution rates) amended

In Regulation 13(1)(b) for “the 2nd commencement date” there is substituted “1st January 2019”.

8 Regulation 14 (continuing members of the 1967 Scheme – transitional contribution rates) amended

In Regulation 14(1) for “the 2nd commencement date” there is substituted “1st January 2019”.

9 Regulation 15 (employer transitional contribution rates) amended

In Regulation 15(1) for “the 2nd commencement date” there is substituted “1st January 2019”.

10 Regulation 18 (transitional costs of funding benefits under the respective schemes) amended

In Regulation 18(5)(c) “nominated” is deleted.

11 Regulation 19 (ring-fencing of 1967 Scheme assets) amended

In Regulation 19(1) for “the 2nd commencement date” there is substituted “1st January 2019”.

12 Regulation 21 (citation and commencement) amended

In Regulation 21(2) for “the 2nd commencement date” there is substituted “1st January 2019”.

13 Schedule 1 (interim rates) amended

In Schedule 1 –

- (a) in each of the following paragraphs, for “the 1st commencement date” there is substituted “1st January 2016” –
 - (i) paragraph 1(1),
 - (ii) paragraph 2(1) and (4),
 - (iii) paragraph 3(1),
 - (iv) paragraph 4(1)(b) and (2), and
 - (v) paragraph 5(2);
- (b) in paragraphs 4(1)(d) and 5(5) for “the 2nd commencement date” there is substituted “1st January 2019”.

14 Schedule 5 (re-payment of pre-1988 liability) amended

In Schedule 5 –

- (a) in sub-paragraph (1) –
 - (i) in the definition “1967 Scheme employer” for “the 1st commencement date” there is substituted “1st January 2016”,

- (ii) in clause (b) of the definition “admitted employer” for “the 1st commencement date” there is substituted “1st January 2016”;
- (iii) in sub-paragraphs (2), (4)(a) and 5(c) for “the 1st commencement date” there is substituted “1st January 2016”;
- (b) in sub-paragraph (4)(b) for “contributing members” there is substituted “members of the respective schemes”.

PART 2

AMENDMENT OF THE PUBLIC EMPLOYEES (PENSION SCHEME) (MEMBERSHIP AND BENEFITS) (JERSEY) REGULATIONS 2015

15 Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015 amended

This Part amends the Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015³ and a reference to –

- (a) a Regulation by number is to the Regulation of the same number in those Regulations; and
- (b) a paragraph by number of a Schedule to those Regulations by number, is to the paragraph of the same number in that Schedule of the same number.

16 Regulation 1 (interpretation) amended

In Regulation 1 –

- (a) after the definitions “civil partnership” and “civil partners” there is inserted –
 - ““cohabiting partner” has the meaning given in Regulation 3;”;
- (b) the definition “nominated cohabiting partner” is deleted;
- (c) in the definition “surviving partner”, “nominated” is deleted.

17 Regulation 3 (meaning of “nominated cohabiting partner”) substituted

For Regulation 3 there is substituted –

“3 Meaning of “cohabiting partner”

- (1) For the purposes of this Regulation “member” (“M”) means an active, deferred or pensioner member.
- (2) A “cohabiting partner” means a person (“P”) who meets all the conditions set out in paragraph (3) for a continuous period of 2 years up to the date of M’s death.
- (3) Subject to paragraph (4), P is entitled to receive benefits under Part 6 (survivor benefits) if –

- (a) M was married to, or had formed a civil partnership with, P;
 - (b) M and P were living together as if they were spouses or as if they were civil partners;
 - (c) neither M nor P was living with a third person as if they were spouses or as if they were civil partners; and
 - (d) either P was financially dependent on M or M and P were financially interdependent.
- (4) Benefits under Part 6 are not payable unless P provides the Committee with such evidence as the Committee requires to show that the conditions set out in paragraph (3) have been satisfied for the period specified in paragraph (2).”.

18 Regulation 6 (pensionable allowances) amended

For Regulation 6(9) there is substituted –

- “(9) The revocation of a pensionable allowance declaration takes effect upon the expiry of the notice given by the employer under paragraph (8).”.

19 Regulation 15 (additional voluntary contributions) amended

In Regulation 15 paragraph (3) is deleted.

20 Regulation 20 (management of pension records) amended

In Regulation 20(3)(c) for “any of Regulations 33 to 35” there is substituted “Regulation 33 or 34”.

21 Regulation 21 (active member pension record) amended

In Regulation 21(5) –

- (a) in sub-paragraph (a) after “pensioner member” there is inserted “, or dies”;
- (b) for sub-paragraph (d) there is substituted –
 - “(d) anything attributable to a pension record adjustment, under Regulation 20(4), arising during that scheme year.”.

22 Regulation 34 (conversion of retirement benefits into lump sum not exceeding £30,000) substituted

For Regulation 34 there is substituted –

“34 Exchange of trivial retirement benefits for lump sum

- (1) In accordance with Article 131CE (permitted commutation – trivial pension) of the Income Tax Law and this Regulation, an active or deferred member is permitted to elect to exchange the whole of the capital value of his or her retirement benefits accrued under the

Scheme for a lump sum not exceeding such amounts as are specified in Article 131CE of that Law.

- (2) For the purposes of this Regulation, Article 131CE of the Income Tax Law is to be read as if for the words and phrases set out in column 1 of the following table there were substituted the words and phrases set out in column 2 of the table –

1 – Words and phrases used in Article 131CE of the Income Tax Law	2 – Substituted words and phrases for the purposes of these Regulations
“An approved Jersey scheme”	“The Public Employees Pension Scheme referred to in Article 2(1) of the Public Employees (Pensions) (Jersey) Law 2014 ⁴ (the “Scheme”)”
“commute”	“exchange”
“pension holder”	“active or deferred member of the Scheme”
“fund value”	“capital value of the active or deferred member’s retirement benefits accrued under the Scheme”.

- (3) An exchange under paragraph (1) is not permitted where the capital value of the active or deferred member’s retirement benefits accrued under the Scheme, includes any amount transferred from another 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).
- (4) An election under paragraph (1) must be made in such form and manner as the Administrator specifies.
- (5) The calculation of the lump sum payable under this Regulation is to be determined by the Committee after consulting the Actuary.
- (6) Payment of the lump sum –
- (a) must in the case of –
 - (i) an active member, be made on the day after the member ceases Scheme employment, or
 - (ii) a deferred member, be made not later than 3 months after the date of the election under paragraph (1);
 - (b) extinguishes the active or deferred member’s rights to any other benefits under the Scheme, as well as the rights of any person contingently entitled to any benefit payable upon that member’s death.”.

23 Regulation 35 (conversion of retirement benefits into lump sum not exceeding £18,000) deleted

Regulation 35 is deleted.

24 Regulation 43 (death in Scheme employment – lump sum benefit) amended

For Regulation 43(7) there is substituted –

“(7) In paragraph (1)(a) “relatives” means any of the following persons –

- (a) spouse;
- (b) civil partner or co-habiting partner;
- (c) son or daughter;
- (d) brother or sister;
- (e) parent;
- (f) grandparent;
- (g) grandchild;
- (h) uncle or aunt;
- (i) nephew or niece.”.

25 Regulation 49 (bankruptcy and non-assignment of Scheme benefits) amended

In Regulation 49(1)(a)(ii) for “nominated cohabiting partner, civil partner” there is substituted “civil partner, cohabiting partner”.

26 Schedule 2 (forfeiture of Scheme benefits) amended

In paragraph 5(2) (effect of forfeiture), for “the person’s employer, or the fund in a case falling under paragraph 2(4)(d)” there is substituted “the fund, or in a case falling under paragraph 2(4)(d), the person’s employer”.

PART 3

AMENDMENT OF THE PUBLIC EMPLOYEES (PENSION SCHEME) (TRANSITIONAL PROVISIONS, SAVINGS AND CONSEQUENTIAL AMENDMENTS) (JERSEY) REGULATIONS 2015

27 Public Employees (Pension Scheme) (Transitional Provisions, Savings and Consequential Amendments) (Jersey) Regulations 2015 amended

This Part amends the Public Employees (Pension Scheme) (Transitional Provisions, Savings and Consequential Amendments) (Jersey) Regulations 2015⁵, and a reference to a Regulation by number is to the Regulation of the same number in those Regulations.

28 Regulation 1 (interpretation) amended

In Regulation 1(1) –

- (a) the definitions “1st commencement date” and “2nd commencement date” are deleted;

- (b) after the definition “contributing member of the 1967 Scheme” there is inserted –
- “ “employer” means the States Employment Board or an admitted employer within the meaning of Regulation 1 of the Membership and Benefits Regulations;”;
- (c) after the definition “General Regulations” there is inserted –
- “ “ill-health retired member” means a person in receipt of a pension under the relevant 1967 Scheme ill-health retirement Regulations within the meaning of Regulation 13(1);
- “Independent Occupational Health Adviser” means a person who is appointed by the States Employment Board (the “Board”) for the purpose of enabling the Board to discharge its function of ensuring the health, safety and well-being of States’ employees under Article 8(1)(c) of the Employment of States of Jersey Employees (Jersey) Law 2005⁶;”;
- (d) in the definition “transition date” for “2nd commencement date” there is substituted 1st January 2019;
- (e) in the definition “transition member” after “or 4” there is inserted “, or who elects to be treated as a transition member under Regulation 13(5)”.

29 Regulation 2 (automatic membership of the Scheme on 2nd commencement date) amended

- (1) In the heading of Regulation 2 for “2nd commencement date” there is substituted “1st January 2019”.
- (2) In Regulation 2(1) and (2), wherever it occurs, for “the 2nd commencement date” there is substituted “1st January 2019”.

30 Regulation 3 (optional membership of the Scheme) amended

In Regulation 3(2), wherever it occurs, for “the 2nd commencement date” there is substituted “1st January 2019”.

31 Regulation 4 (change of category of membership by a continuing member of the 1967 Scheme) amended

In Regulation 4(5) for “the 2nd commencement date” there is substituted “1st January 2019”.

32 Regulation 7 (retirement benefits) amended

In Regulation 7 –

- (a) in paragraphs (5) and (6)(a) for “the 2nd commencement date” there is substituted “1st January 2019”;
- (b) in paragraph (8)(c) for “the 1st commencement date” there is substituted “1st January 2016”.

33 Regulation 10 (survivor benefits) amended

In Regulation 10 –

(a) for paragraph (2) there is substituted –

“(2) If a transition member dies as an active, deferred or pensioner member of the Scheme, his or her 1967 Scheme survivor benefits are payable in accordance with whichever of the 1967 Scheme Regulations applied to that transition member on the day before the transition date except that –

(a) where a transition member dies as a pensioner in receipt of a pension under the Existing Members Regulations or New Members Regulations (as the case may be), the proviso in Regulation 11(1) (death of a pensioner) of those Regulations, is not to have effect in relation to benefits payable under that Regulation in respect of the transition member concerned;

(b) the annual amount of 1967 Scheme survivor benefits payable under whichever of the 1967 Scheme Regulations applied to that transition member, must be calculated by reference to –

(i) pensionable service accrued (under the 1967 Scheme) as at the day before the transition date; and

(ii) final pensionable earnings calculated in accordance with Regulation 9 or, with effect from 1st January 2019, Regulation 9B.”.

34 Regulation 11 (extension of 1967 Scheme survivor benefits to nominated cohabiting partner) amended

In Regulation 11 –

(a) in the heading, “nominated” is deleted;

(b) in paragraph (1)(b), “nominated” is deleted;

(c) for paragraphs (3) to (5) there is substituted –

“(3) Subject to paragraph (4), the cohabiting partner of a transition member who is an active, deferred or pensioner member of the Scheme (whether or not in receipt of his or her 1967 Scheme retirement benefits), is entitled to receive that transition member’s 1967 Scheme survivor benefits.

(4) Regulation 3(4) of the Membership and Benefits Regulations applies for the purposes of 1967 Scheme survivor benefits payable to a cohabiting partner under this Regulation.

(5) For the purposes of this Regulation any reference to a “spouse” or “civil partner” in the Existing Members Regulations or New Members Regulations is to be taken to include a reference to a cohabiting partner.”.

35 Regulation 13 (ill-health – 1967 Scheme)

In Regulation 13 –

- (a) in paragraph (1), after “transition member” there is inserted “or an ill-health retired member”;
- (b) after paragraph (3) there is inserted –
 - “(4) With effect from the transition date, paragraphs (5) to (7) apply to an ill-health retired member who –
 - (a) ceases to receive a pension under the relevant 1967 Scheme ill-health retirement Regulations;
 - (b) under those Regulations accepts an offer of employment from an employer; and
 - (c) becomes, on or after the transition date, an active member of the Scheme under Regulation 8 of the Membership and Benefits Regulations.
- (5) An ill-health retired member may, under this Regulation, elect to be treated as a transition member for the purposes of these Regulations and be entitled to receive payment of his or her retirement benefits accrued under the 1967 Scheme in accordance with Regulation 7, and calculated in accordance with Regulation 9 or, with effect from 1st January 2019, Regulation 9B.
- (6) An election under paragraph (5) must be made –
 - (a) before the expiry of 3 months commencing with the date on which the ill-health retired member accepts an offer of employment from an employer; and
 - (b) in such form and manner as the Administrator specifies.
- (7) If an ill-health retired member makes no such election, he or she is entitled to a deferred pension under whichever of the 1967 Scheme Regulations applied to that member immediately before he or she became an active member of the Scheme.”.

36 Regulation 13A inserted

After Regulation 13 (ill-health – 1967 Scheme) there is inserted –

“13A Conversion of 1967 Scheme retirement benefits into lump sum – terminal illness

- (1) This Regulation applies to a transition member who is eligible to payment of an ill-health pension under Regulation 36 of the Membership and Benefits Regulations and who the Independent Occupational Health Adviser certifies as having a life expectancy of 12 months or less.
- (2) A transition member may, under this Regulation, apply to the Administrator to exchange the whole of his or her 1967 Scheme retirement benefits accrued as at the day before the transition date, for a lump sum payment equal to –
 - (a) 70% of the total amount of those benefits multiplied by 5; and
 - (b) 30% of the balancing amount of those benefits payable at the rate of £13.50 per £1 of benefit exchanged.

- (3) The lump sum is to be paid immediately the transition member leaves Scheme employment.
- (4) A lump sum payment under this Regulation will extinguish the transition member's rights to any other benefits under the 1967 Scheme, but will not extinguish the rights of any person contingently entitled to any benefit payable upon that transition member's death."

37 Regulation 14A inserted

After Regulation 14 (payment of retirement benefits before normal pension age – uniformed members) there is inserted –

“14A Payment of retirement benefits before normal pension age – uniformed members with less than 10 years’ pensionable service under the 1967 Scheme

- (1) This Regulation applies to a transition member who –
 - (a) as at the day before the transition date was a uniformed member of the 1967 Scheme;
 - (b) as at the day before the transition date had accrued less than 10 years’ pensionable service under the 1967 Scheme; and
 - (c) on the transition date continues as a uniformed member of the Scheme.
- (2) The pensionable service accrued under each of the respective schemes by a transition member to whom this Regulation applies, may be aggregated for the purpose of determining whether such a member has accrued a minimum of 10 years’ pensionable service so as to qualify for earlier payment of his or her 1967 Scheme retirement benefits, calculated in accordance with the relevant Regulations.
- (3) In this Regulation –
 - (a) “relevant Regulations” means Regulation 6 (pensions payable before normal retiring age to members with 10 years’ pensionable service) of the Existing Members Regulations or New Members Regulations (as the case may be);
 - (b) “uniformed member of the 1967 Scheme” means a category A member (other than such a member in respect of whom the relevant Regulations do not apply), a category B or a category C member.”.

38 Regulation 15 (transfer payments) amended

In Regulation 15(5) for “the 1st commencement date” there is substituted “1st January 2016”.

39 Regulation 16 (admission of 1967 Scheme employers to the Scheme) amended

In Regulation 16(1) and (4) for “the 1st commencement date” there is substituted “1st January 2016”.

40 Regulation 17 (continued obligations of 1967 Scheme employers and contribution certificates) amended

In Regulation 17, in both places in paragraph (1), and in paragraph (2), for “the 1st commencement date” there is substituted “1st January 2016”.

41 Regulation 18 (appointments etc.) amended

In Regulation 18(1) and (2) for “the 1st commencement date” there is substituted “1st January 2016”.

PART 4**CLOSING****42 Citation and commencement**

These Regulations may be cited as the Public Employees (Pension Scheme) (Miscellaneous Amendments) (No. 2) (Jersey) Regulations 2020 and come into force 7 days after the day on which they are made.

ENDNOTES

Table of Endnote Reference

<i>1</i>	<i>chapter 16.640</i>
<i>2</i>	<i>chapter 16.640.20</i>
<i>3</i>	<i>chapter 16.640.30</i>
<i>4</i>	<i>chapter 16.640</i>
<i>5</i>	<i>chapter 16.640.70</i>
<i>6</i>	<i>chapter 16.325</i>