



Jersey

**PUBLIC EMPLOYEES (CONTRIBUTORY  
RETIREMENT SCHEME) (GENERAL)  
(AMENDMENT No. 10) (JERSEY)  
REGULATIONS 2009**

**Arrangement**

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**Regulation**

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*Made*

*7th October 2009*

*Coming into force*

*14th October 2009*

**THE STATES**, in pursuance of Articles 2, 3 and 4 of the Public Employees (Retirement) (Jersey) Law 1967<sup>1</sup>, have made the following Regulations –

**1 Interpretation**

In these Regulations, “principal Regulations” means the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989<sup>2</sup>.

**2 Regulation 1 amended**

In Regulation 1 of the principal Regulations after the definition “1967 Regulations” there shall be inserted the following definition –

“ ‘salary’ means the basic salary or wage of a member, together with the member’s pensionable allowances, if any, but does not include –

- (a) overtime payments;
- (b) payments of a temporary nature;
- (c) payments in respect of untaken leave; or
- (d) extra hours payments, stand-by payments, call-out payments, or any other payment, unless the employer has declared the payments to be a pensionable allowance under Regulation 18(1) of the 1989 Existing Members Regulations or Regulation 18(1) of the 1989 New Members Regulations;”.

**3 Regulation 9 amended**

In Regulation 9 of the principal Regulations –

- (a) in paragraph (1)(b) before the words “such document or documents” there shall be inserted the words “a written statement, and written undertaking, in accordance with Regulation 9A and”;
- (b) after paragraph (1) there shall be inserted the following paragraph –
  - “(1A) The amounts to be contributed to the scheme by a person who is the employer (as referred to in paragraph (1)) may include (but are not restricted to) such amounts as the Actuary may determine as being reasonably attributable to the person in respect of the capitalized value from time to time of the debt transferred to the scheme when the scheme was amended with effect from 1st January 1988 –
    - (a) in the case of an amount certified in accordance with paragraph (1)(c)(i) or (ii), whether or not the person was in existence before that date; and
    - (b) in the case of an amount certified in accordance with paragraph (1)(c)(ii), whether the person was admitted as an employer to the scheme before or after the date on which this paragraph came into force and whether or not the person is for the time being an admitted employer.”;
- (c) in paragraph (4), for the words “(subject, if paragraph (2) applies, to the agreement of the Committee)” there shall be substituted the words “(if the Committee agrees after the Committee has obtained the advice of the Actuary)”.

**4 New Regulations inserted**

After Regulation 9 of the principal Regulations there shall be inserted the following Regulations –

**“9A Undertakings concerning admission to scheme**

- (1) A person who as an employer makes an application referred to in Regulation 9(1)(b) shall, having regard to the relevant certificate obtained from the Actuary under Regulation 9(1)(c)(i), provide the Chief Minister with a written statement that the person acknowledges that, if the application is accepted, the contributions certified by the Actuary as payable from time to time to the scheme will be due from the person and will be recoverable as a civil debt due to the Committee.
- (2) A person who has been admitted to the scheme as an employer shall, if the person has not already provided a written statement under paragraph (1) in respect of the admission, and having regard to such certificates as have been obtained from the Actuary under Regulation 9(1)(c)(i) and (ii) in respect of the person, provide the Chief Minister with a written statement that the person acknowledges that the contributions certified by the Actuary as

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payable from time to time to the scheme are or will be due from the person and are or will be recoverable as a civil debt due to the Committee.

- (3) A person who as an employer makes an application referred to in Regulation 9(1)(b) shall, having regard to the relevant certificate obtained from the Actuary under Regulation 9(1)(c)(i), also provide the Chief Minister with a written undertaking that, if the application is accepted, the person will –
- (a) provide to the Committee, within the period specified by the Committee, such information as the Committee requires relating to the person and to the employees that are to be admitted, including information on the salaries of the employees;
  - (b) provide, from time to time on demand by the Committee, whether before or after the admission occurs, such evidence as the Committee requires of the person's ability to pay contributions to the scheme and of the person's ability to continue to pay them in the future;
  - (c) pay, within the period specified by the Committee, the contributions to the scheme that are required to be paid from time to time by the terms of admission, including the contributions that the Actuary certifies in accordance with Regulation 9(1)(c)(i) and (ii);
  - (d) make good any shortfall in the person's contributions that arises from the person's error, from a change in the salaries of the employees or from any other cause; and
  - (e) in general, fulfil all the person's obligations arising out of the admission, including any obligations that arise after the admission occurs.
- (4) A person who has been admitted to the scheme as an employer shall, if the person has not already provided an undertaking under paragraph (3) in respect of the admission, and having regard to such certificates as have been obtained from the Actuary under Regulation 9(1)(c)(i) and (ii) in respect of the person, provide the Chief Minister with a written undertaking that the person will –
- (a) provide to the Committee, within the period specified by the Committee, such information as the Committee requires relating to the person and to the employees that have been or are to be admitted, including information on the salaries of the employees;
  - (b) provide, from time to time on demand by the Committee, such evidence as the Committee requires of the person's ability to pay contributions to the scheme and of the person's ability to continue to pay them in the future;
  - (c) pay, within the period specified by the Committee, the contributions to the scheme that are required to be paid from time to time by the terms of admission, including the

- contributions that the Actuary certifies in accordance with Regulation 9(1)(c)(i) and (ii);
- (d) make good any shortfall in the person's contributions that arises from the person's error, from a change in the salaries of the employees or from any other cause; and
- (e) in general, fulfil all the person's obligations arising out of the admission, including any obligations that arise after the admission occurs.

#### **9B Duty to fulfil employer undertaking**

If, pursuant to an application referred to in Regulation 9(1)(b), a person as an employer, and some or all of the person's employees, have been admitted to the scheme –

- (a) the contributions certified by the Actuary as payable by the person to the scheme, and any other amounts required to be paid by the person under these Regulations, shall be due from the person and shall be recoverable as a civil debt due to the Committee;
- (b) the person shall comply, and continue to comply, with any undertaking that is in force, being an undertaking that the person has given under Regulation 9A(3) or (4);
- (c) the person shall on demand by the Committee from time to time while any undertaking given by the person under Regulation 9A(3) or (4) is in force, and within the period specified by the Committee, confirm to the Committee in writing that the person has complied with the undertaking; and
- (d) the person shall on demand by the Committee from time to time, and within the period specified by the Committee, provide a certificate from the person's auditors that the person has paid all the contributions to the scheme that are required to be paid by the person, and any other amounts required to be paid by the person under these Regulations.

#### **9C Application to existing and past admitted employers**

- (1) Regulations 9A(2) and (4) and 9B shall apply to and in respect of –
  - (a) a person admitted as an employer at any time; and
  - (b) contributions, information, shortfalls, and obligations, that arose at, or relate to, any time,including a time before the date on which those Regulations came into force.
- (2) Regulations 9A(2) and (4) and 9B shall apply to and in respect of –
  - (a) a person who was at any time an admitted employer; and
  - (b) contributions, information, shortfalls, and obligations, in relation to the person,

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whether or not the person has for the time being any admitted employees and whether or not the person is for the time being an admitted employer.”.

**5 Citation and commencement**

These Regulations may be cited as the Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 10) (Jersey) Regulations 2009 and shall come into force 7 days after they are made.

**L.-M. HART**

*Assistant Greffier of the States*

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<sup>1</sup>

*chapter 16.650*

<sup>2</sup>

*chapter 16.650.36*