



Jersey

**PUBLIC EMPLOYEES (PENSION SCHEME)  
(MEMBERSHIP AND BENEFITS) (JERSEY)  
REGULATIONS 2015**

**Official Consolidated Version**

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Jersey

## **PUBLIC EMPLOYEES (PENSION SCHEME) (MEMBERSHIP AND BENEFITS) (JERSEY) REGULATIONS 2015**

### **Contents**

#### **Regulation**

<b>PART 1</b>	<b>5</b>
INTERPRETATION	5
1 Interpretation .....	5
2 Meaning of “eligible child” .....	9
3 Meaning of “nominated cohabiting partner” .....	10
4 Meaning of “pensionable earnings” .....	10
5 Notional pensionable earnings.....	11
6 Pensionable allowances .....	11
<b>PART 2</b>	<b>13</b>
MEMBERSHIP	13
7 Power to extend application of Scheme – admitted employers.....	13
8 Active membership.....	13
9 Restrictions on active membership .....	14
10 Ending active membership .....	14
11 Deferred membership .....	15
12 Pensioner membership .....	15
13 Survivor membership .....	15
<b>PART 3</b>	<b>16</b>
CONTRIBUTIONS	16
14 Compulsory contributions and recovery of member contributions .....	16
15 Additional voluntary contributions .....	16
16 Contributions during child-related leave .....	17
17 Contributions during absence for ill-health etc. ....	17
18 Contributions in relation to reduced contractual salary .....	18
19 Deferred pension, refund of contributions or transfer value .....	18
<b>PART 4</b>	<b>19</b>
PENSION RECORDS	19

20	Management of pension records .....	19
21	Active member pension record .....	20
22	Deferred member pension record .....	21
23	Pensioner member pension record – active member.....	22
24	Pensioner member pension record – deferred member .....	23
25	Survivor member pension record – deceased active member .....	24
26	Survivor member pension record – deceased deferred member.....	24
27	Survivor member pension record – deceased pensioner member.....	25
<b>PART 5</b>		<b>26</b>
RETIREMENT BENEFITS		26
<i>Retirement at, before or after normal pension age</i>		
28	Normal pension age – exception.....	26
29	Retirement benefits.....	26
30	Voluntary early retirement.....	27
<i>Alteration of how and when benefits may be taken</i>		
31	Conversion of retirement benefits into lump sum.....	27
32	Conversion of retirement benefits into lump sum whilst in Scheme employment.....	28
33	Conversion of retirement benefits into lump sum – terminal illness .....	28
34	Conversion of retirement benefits into lump sum not exceeding £30,000.....	29
35	Conversion of retirement benefits into lump sum not exceeding £18,000.....	29
<i>Ill-health retirement</i>		
36	Early payment of retirement benefits on ill-health grounds .....	30
37	Role of Independent Occupational Health Adviser .....	31
38	Pension records and calculation of ill-health pension .....	31
39	Review of entitlement to ill-health pension.....	32
40	Inappropriate award of ill-health pension .....	32
<i>Increased retirement benefits and commencement of retirement benefits</i>		
41	Increased retirement benefits at request of employer.....	33
42	Commencement of retirement benefits .....	34
<b>PART 6</b>		<b>34</b>
SURVIVOR BENEFITS		34
<i>Partners' and dependants' benefits</i>		
43	Death in Scheme employment – lump sum benefit.....	34
44	Survivor pension – partners and dependants of deceased active members.....	35
45	Survivor pension – partners and dependants of deceased deferred or pensioner members.....	36
46	Amount of survivor pension – reduction in specific cases.....	36
<i>Children's pensions</i>		
47	Children's pension – children of deceased active, deferred or pensioner members ..	37

<b>PART 7</b>	<b>38</b>
<b>MISCELLANEOUS AND CLOSING PROVISIONS</b>	<b>38</b>
<i>General matters</i>	
48	Interest on late payment of Scheme benefits..... 38
49	Bankruptcy and non-assignment of Scheme benefits..... 38
<i>Forfeiture</i>	
50	Forfeiture of Scheme benefits..... 39
<i>Closing</i>	
51	Citation ..... 39
<b>SCHEDULE 1</b>	<b>40</b>
<b>EXTENSION OF SCHEME – ADMITTED EMPLOYERS</b>	<b>40</b>
1	Interpretation ..... 40
2	Participation of certain employers and employees ..... 40
3	Pre-admission requirements ..... 41
4	Admission agreement requirements..... 41
5	Indemnities and bonds etc. .... 43
6	Contributions and other payments ..... 43
7	Additional costs arising from admitted employer’s level of performance ..... 44
8	Ending of participation ..... 45
9	Application or disposal of assets for benefit of employees ..... 46
<b>SCHEDULE 2</b>	<b>48</b>
<b>FORFEITURE OF SCHEME BENEFITS</b>	<b>48</b>
1	Interpretation ..... 48
2	Circumstances leading to forfeiture of benefits..... 48
3	Application for forfeiture certificate ..... 49
4	Certificate and extent of forfeiture ..... 49
5	Effect of forfeiture ..... 50
6	Appeals ..... 50
<b>ENDNOTES</b>	<b>51</b>
Table of Legislation History..... 51	
Table of Endnote References..... 51	



Jersey

## **PUBLIC EMPLOYEES (PENSION SCHEME) (MEMBERSHIP AND BENEFITS) (JERSEY) REGULATIONS 2015**

**THE STATES**, in pursuance of Articles 2, 4, 5, and 9 of, and Schedule 1 to the [Public Employees \(Pensions\) \(Jersey\) Law 2014](#) and Articles 2 and 4 of the [Public Employees \(Retirement\) \(Jersey\) Law 1967](#), have made the following Regulations –

Commencement [[see endnotes](#)]

### **PART 1**

#### **INTERPRETATION**

#### **1 Interpretation**

In these Regulations, unless the context indicates otherwise –

“accrual rate” shall be construed in accordance with Regulation 7 of the Funding and Valuation Regulations;

“active member” means a person who is in Scheme employment and is eligible to be an active member of the Scheme under Regulation 8;

“active member pension record” shall be construed in accordance with Regulation 21;

“Actuary” means a person appointed in accordance with Regulation 10 of the Administration Regulations, to give actuarial advice in respect of the fund;

“Administration Regulations” means the [Public Employees \(Pension Scheme\) \(Administration\) \(Jersey\) Regulations 2015](#);

“Administrator” shall be construed in accordance with Regulation 19 of the Administration Regulations;

“admission agreement” has the meaning given in paragraph 1 of Schedule 1;

“admitted employer” means an employer other than the States Employment Board –

- (a) admitted to the Scheme under –
  - (i) Regulation 7 and paragraph 2(1) of Schedule 1 to these Regulations,
  - (ii) Regulation 16(1) of the Transitional Regulations, or
  - (iii) Article 10(5) of the Law; or

(b) treated as if admitted to the Scheme under any enactment which provides for that employer to become an employer for the purposes of the Scheme in respect of members of the Scheme whose employment with the States Employment Board is transferred to that employer;

“air traffic control unit” has the meaning given in Article 1(1) of the [Air Navigation \(Jersey\) Law 2014](#);

“annual pension increase” shall be construed in accordance with Regulation 8 of the Funding and Valuation Regulations;

“approved Jersey scheme” has the meaning given in Article 130 of the Income Tax Law;

“child-related leave” means “adoption leave”, “compulsory maternity leave”, “ordinary maternity leave” and “parental leave” construed in accordance with Part 5A of the [Employment \(Jersey\) Law 2003](#) and includes any paid or unpaid time off in relation to the birth or adoption of a child, permitted under the terms of an active member’s contract of employment;

“children’s pension” means a pension payable to an eligible child under Regulation 47;

“civil partnership” and “civil partners” shall be construed in accordance with Article 2 of the [Civil Partnership \(Jersey\) Law 2012](#);

“Committee” means the “Committee of Management” construed in accordance with Article 4 of the Law and Regulation 2 of the Administration Regulations;

“continuing member of the 1967 Scheme” means a contributing member of that scheme construed in accordance with Regulation 3(2)(b) of the Transitional Regulations;

“contributing member of the 1967 Scheme” means –

- (a) a “contributory member” within the meaning of Regulation 4 of the [Public Employees \(Contributory Retirement Scheme\) \(Jersey\) Regulations 1967](#);
- (b) a “category A member” and a “category B member” within the meaning of Regulation 1 of the Existing Members Regulations and Regulation 1 of the New Members Regulations;
- (c) a “category C” member within the meaning of Regulation 1 of the New Members Regulations;
- (d) a “member” within the meaning of Regulation 1 of the Existing Members Regulations and Regulation 1 of the New Members Regulations, who is not a category A, category B or category C member (within the meaning of those Regulations); and
- (e) a “member” within the meaning of Regulation 1 of the [Public Employees \(Contributory Retirement Scheme\) \(Former Hospital Scheme\) \(Jersey\) Regulations 1992](#);

“contributions” shall be construed in accordance with Regulation 14;

“cost neutral amount” means such amount as is calculated by the Actuary so as to produce an amount which is not expected to result in additional cost to the fund or a net contribution to the fund;

“death in Scheme employment lump sum” means a lump sum payable under Regulation 43;

“deferred member” has the meaning given in Regulation 11;

“deferred member pension record” shall be construed in accordance with Regulation 22;

“dependant” in relation to a deceased member of the Scheme, means any one or more persons other than an eligible child, who in the opinion of the Committee was at the time of the member’s death –

- (a) financially dependent on the member for the provision of all or most of the ordinary necessities of life;
- (b) in a mutually dependent financial relationship with the member; or
- (c) dependent on the member because of physical or mental impairment which, subject to such medical examination of the person as the Committee requires, the Committee determines is likely to be permanent;

“earned pension” means pension –

- (a) accrued at the accrual rate under Regulation 7 of the Funding and Valuation Regulations, in respect of pensionable earnings paid in a scheme year (irrespective of whether those earnings relate to work carried out in that year); or
- (b) credited to a person’s pension record in accordance with Regulation 23(4)(b)(i) of the Administration Regulations;

“eligible child” has the meaning given in Regulation 2;

“employee” means –

- (a) a person employed by an employer who the employer certifies is –
  - (i) a full-time or part-time employee, and
  - (ii) employed on a permanent or fixed-term contract of employment; or
- (b) a person referred to in Article 1(2) of the Law;

“employer” means an admitted employer or the States Employment Board;

“enhanced level ill-health pension” shall be construed in accordance with Regulation 36(4)(b);

“Existing Members Regulations” means the [Public Employees \(Contributory Retirement Scheme\) \(Existing Members\) \(Jersey\) Regulations 1989](#);

“financial year” means a period of 12 months beginning on 1st January and ending on 31st December;

“Funding and Valuation Regulations” means the [Public Employees \(Pension Scheme\) \(Funding and Valuation\) \(Jersey\) Regulations 2015](#);

“former member” means a deferred member or a pensioner member;

“General Regulations” means the [Public Employees \(Contributory Retirement Scheme\) \(General\) \(Jersey\) Regulations 1989](#);

“gainful employment” means paid employment for not less than 30 hours in each week for a period of not less than 12 months;

“ill-health pension” shall be construed in accordance with Regulation 36;

“Income Tax Law” means the [Income Tax \(Jersey\) Law 1961](#);

“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 2005](#);

- “Law” means the [Public Employees \(Pensions\) \(Jersey\) Law 2014](#);
- “member of the 1967 Scheme” means a contributing member of the 1967 Scheme;
- “Minister” means the Chief Minister;
- “New Members Regulations” means the [Public Employees \(Contributory Retirement Scheme\) \(New Members\) \(Jersey\) Regulations 1989](#);
- “nominated cohabiting partner” has the meaning given in Regulation 3;
- “normal pension age” shall be construed in accordance with Article 9 of the Law;
- “notional pensionable earnings” shall be construed in accordance with Regulation 5;
- “opening balance” means the amount of benefits accrued under a pension record as at the beginning of the scheme year;
- “ordinary member” means an active member of the Scheme who is not a uniformed member;
- “pension administration strategy” means a written statement of policies, procedures and obligations governing the administration of the respective schemes, prepared under Regulation 20 of the Administration Regulations;
- “pensionable allowances” shall be construed in accordance with Regulation 6;
- “pensionable earnings” has the meaning given in Regulation 4;
- “pensioner member” shall be construed in accordance with Regulation 12;
- “pensioner member pension record” is a pension record opened in the circumstances set out in Regulations 23 and 24;
- “pension record” is a record established and maintained in accordance with Regulation 20;
- “pensionable service” in relation to the Scheme, means a period of Scheme employment computed in years and complete days;
- “respective schemes” has the meaning given in Article 1(1) of the Law, and “schemes” shall be construed accordingly;
- “revaluation rate” shall be construed in accordance with Regulation 9(3) of the Funding and Valuation Regulations;
- “Scheme” means the Public Employees Pension Scheme referred to in Article 2(1) of the Law;
- “Scheme employment” means employment by virtue of which a person is eligible to be an active member of the Scheme;
- “scheme year” means a period of 12 months beginning on 1st January and ending 31st December;
- “spouse” means a widow or a widower;
- “standard level ill-health pension” shall be construed in accordance with Regulation 36(4)(a);
- “survivor member” means a person entitled to a survivor pension or a children’s pension;
- “surviving partner” in relation to a deceased active, deferred or pensioner member of the Scheme, means a spouse, surviving civil partner or surviving nominated cohabiting partner;
- “survivor pension” means a pension payable under Regulations 44 or 45;



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

“Treasurer” means the Treasurer of the States;

“UK Finance Act” means the Finance Act 2004 (c. 12) of the United Kingdom;

“uniformed member” means an active member employed –

- (a) as an air traffic control officer in the air traffic control unit maintained at Jersey Airport (who for the purposes of the Scheme, shall be taken to be serving in uniform);
- (b) as the chief ambulance officer or assistant chief ambulance officer, or an emergency ambulance officer for the purposes of discharging the States of Jersey’s ambulance service;
- (c) as the Chief Officer or Deputy Chief Officer of, or a police officer in the States Police Force within the meaning of Article 1 of the [States of Jersey Police Force Law 2012](#);
- (d) as a firefighter within the meaning of Article 1 of the [Fire and Rescue Service \(Jersey\) Law 2011](#);
- (e) as an officer in the Airport Rescue and Firefighting Service within the meaning of Article 1 of the [Fire and Rescue Service \(Jersey\) Law 2011](#);
- (f) as the prison Governor or a prison officer within the meaning of Article 1(1) of the [Prison \(Jersey\) Law 1957](#).

## 2 Meaning of “eligible child”

- (1) An “eligible child”, in relation to a deceased active, deferred or pensioner member, means –
  - (a) a natural or adopted child of a member who meets any of the conditions in paragraph (2), and who was born before, on or in the case of a natural child, within 12 months of the member’s death; or
  - (b) a step-child or child accepted by the deceased member as a member of the family who –
    - (i) meets any of the conditions in paragraph (2), and
    - (ii) was dependent on the member at the date of death.
- (2) The conditions referred to in paragraph (1) are that –
  - (a) the person is under the age of 18;
  - (b) the person is in full-time education or vocational training and has not reached the age of 23 (but the Committee may continue to treat a person as fulfilling this condition notwithstanding any break in a course of education or vocational training, although the person does not fulfil the condition during such a break);
  - (c) the person is unable to engage in gainful employment because of physical or mental impairment and either –
    - (i) has not reached the age of 23, or
    - (ii) the impairment is, subject to such medical examination of the person as the Committee requires, in the opinion of the Committee likely to be permanent, and the person was dependent on the member at the

date of the member's death because of that physical or mental impairment.

### **3 Meaning of “nominated cohabiting partner”**

- (1) “Nominated cohabiting partner” means a person nominated by an active, deferred or pensioner member in accordance with this Regulation.
- (2) A member referred to in paragraph (1) (“M”) may nominate another person (“P”) to receive benefits under the Scheme by giving to the Administrator a declaration signed by both M and P that the condition in paragraph (3) has been satisfied for a continuous period of at least 2 years which includes the day on which the declaration is signed.
- (3) The condition is that –
  - (a) M is able to marry, or form a civil partnership with, P;
  - (b) M and P are living together as if they were spouses or as if they were civil partners;
  - (c) neither M nor P is living with a third person as if they were spouses or as if they were civil partners; and
  - (d) either P is financially dependent on M or M and P are financially interdependent.<sup>1</sup>
- (4) A nomination has no effect if the condition in paragraph (3) has not been satisfied for a continuous period of at least 2 years which includes the day on which the declaration is signed.
- (5) A nomination ceases to have effect if –
  - (a) either M or P gives written notice of revocation to the Administrator;
  - (b) M makes a subsequent nomination under this Regulation;
  - (c) either M or P marries, forms a civil partnership or lives with a third person as if they were spouses or as if they were civil partners; or
  - (d) P dies.<sup>2</sup>
- (6) P is M's surviving nominated partner if –
  - (a) the nomination has effect at the date of M's death; and
  - (b) P satisfies the Committee that the condition in paragraph (3) was satisfied for a continuous period of at least 2 years immediately prior to M's death.
- (7) <sup>3</sup>

### **4 Meaning of “pensionable earnings”**

- (1) Subject to paragraph (2) and Regulation 5, an active member's pensionable earnings is the total of all the salary or wages, and pensionable allowances paid by an employer in a scheme year.
- (2) An active member's pensionable earnings do not include –
  - (a) any sum which has not had any income tax liability determined on it;
  - (b) any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to an employment;
  - (c) any overtime payments;

- (d) any payment in respect of untaken annual leave;
- (e) any payment in lieu of notice to terminate a contract of employment;
- (f) any amount treated as the money value to the person of the provision of a motor vehicle or any amount paid in lieu of such provision;
- (g) any payment in consideration of loss of future pensionable earnings or benefits; or
- (h) from 1st January 2019, any payment of a temporary nature.<sup>4</sup>

## 5 Notional pensionable earnings

- (1) This Regulation applies to an active member under the circumstances set out in paragraph (2), in relation to a period where such a member is notionally taken as being paid pensionable earnings (“notional pensionable earnings”) in respect of an employment, calculated in accordance with paragraph (3).
- (2) The circumstances referred to in paragraph (1) are where the member –
  - (a) commences a period of –
    - (i) child-related leave, or
    - (ii) leave due to ill-health or injury,  
and is on reduced contractual pay or no pay;
  - (b) dies; or
  - (c) under Regulation 36, retires before normal pension age with payment of the enhanced level ill-health pension.
- (3) A member’s notional pensionable earnings for the purposes of accruing benefits under the Scheme shall be calculated by reference to the best 365 consecutive days of pensionable earnings paid by an employer in respect of that member in the 3 years before the day on which any of the circumstances referred to in paragraph (2)(a) to (c) occur.
- (4) Where the member has been employed for less than 3 years but more than one year before the day on which any of the circumstances referred to in paragraph (2)(a) and (b) occur, the member’s notional pensionable earnings shall be calculated by reference to the best 365 consecutive days of pensionable earnings paid by an employer in respect of that member’s actual period of employment.
- (5) Where the member has been employed for one year or less before the day on which any of the circumstances referred to in paragraph (2)(a) and (b) occur, the member’s notional pensionable earnings shall be calculated by reference to the whole year equivalent of pensionable earnings that would have been paid by an employer in respect of that member’s actual period of employment.

## 6 Pensionable allowances

- (1) Subject to paragraph (2), an employer may from time to time declare to be a pensionable allowance any payment or allowance which is routinely paid to an active member in addition to that member’s basic salary or wages.
- (2) A pensionable allowance shall not include any of the items listed in Regulation 4(2).
- (3) A declaration may only be made with the consent of the Committee and the Minister in consultation with the Actuary.

- (4) A declaration shall –
- (a) define the payment or allowance;
  - (b) specify the date from which the declaration takes effect, which may include a date preceding the date of consent given under paragraph (3) (“date of consent”), so as to apply in relation to any payment or allowance made before the date of consent;
  - (c) subject to paragraph (5), specify whether or not any such payment or allowance received by an active member or former member before the date of consent, shall count towards the computation of benefits payable under these Regulations; and
  - (d) specify whether or not by virtue of the declaration, a pensioner member or survivor member shall be entitled to additional payments in respect of benefits paid before the date of consent.
- (5) If in accordance with paragraph (4)(c) the employer’s declaration specifies that the pensionable allowance received by an active or former member before the date of consent shall count towards the computation of benefits –
- (a) the Actuary shall calculate and advise the Committee and the Minister of the sum of the total for all members and former members of the value of the additional benefits and costs to the fund arising from any pensionable allowance paid before the date of consent, including the value and cost of any additional payments in respect of any benefits under paragraph (4)(d);
  - (b) additional contributions shall be payable by –
    - (i) employers of any such active or former members who receive improved benefits as a result of the declaration, and
    - (ii) any such active or former members who receive improved benefits as a result of the declaration,of such an amount as the Minister and the Committee shall determine having taken the Actuary’s advice;
  - (c) the value of the additional contributions under sub-paragraph (b) shall be equal to the value of the additional benefits arising as calculated by the Actuary under sub-paragraph (a);
  - (d) the additional contributions payable under sub-paragraph (b) may consist of –
    - (i) a single cash payment to the fund,
    - (ii) a series of equal cash payments to the fund over a period determined by the Minister on the advice of the Actuary, having regard to the additional benefits arising, or
    - (iii) any combination of payments described in clauses (i) and (ii) as the Minister may determine in consultation with the employer and the Committee.
- (6) Contributions deducted from an active member’s pensionable earnings under Regulation 11(8) of the Funding and Valuation Regulations –
- (a) where they are due before the date the declaration takes effect, shall be based on the member’s salary excluding the pensionable allowance; and
  - (b) where they are due on or after the date the declaration takes effect, shall be based on the member’s salary including the pensionable allowance.

- (7) Contributions payable by employers under Regulation 11(7) of the Funding and Valuation Regulations –
  - (a) where they are due before the date the declaration takes effect, shall be based on members' salaries excluding the pensionable allowance; and
  - (b) where they are due on or after the date the declaration takes effect, shall be based on members' salaries including the pensionable allowance.
- (8) Subject to paragraph (9), an employer may revoke a pensionable allowance declaration on giving the Minister and the Committee at least 6 months notice of the intention to do so.
- (9) The revocation of a pensionable allowance declaration shall take effect upon the expiry of 6 months beginning with the date the employer gives notice under paragraph (8).

## **PART 2**

### **MEMBERSHIP**

#### **7 Power to extend application of Scheme – admitted employers**

Schedule 1 sets out the provisions which shall apply in respect of the admission of certain employers and their employees to the Scheme and provisions in respect of any such employers who employ members of the 1967 Scheme, and for the admission of such employers to the 1967 Scheme.

#### **8 Active membership**

- (1) Subject to Regulation 9(1) and (2), and the provisions of this Regulation, a person becomes an active member of the Scheme on the day that person's Scheme employment begins.
- (2) In the case of a person employed under a fixed-term contract of employment entered into on or after the coming into force of these Regulations –
  - (a) he or she must before that employment commences, give such notification as the Administrator requires as to whether or not he or she wishes to become an active member;
  - (b) who under sub-paragraph (a) notifies the Administrator that he or she wishes to become an active member, that notification shall apply to any subsequent renewal of the fixed-term contract unless, before that renewal, the person notifies the Administrator that he or she no longer wishes to be an active member;
  - (c) a notification given under sub-paragraph (a) is binding for the duration of the contract;
  - (d) who upon the expiry of that contract enters into a permanent contract of employment and –
    - (i) is an active member (by virtue of a notification under sub-paragraph (a)), that person shall remain an active member,

- (ii) is not an active member (by virtue of a notification under sub-paragraph (a)), that person shall automatically become an active member.
- (3) This paragraph applies to a person employed under a fixed-term contract of employment –
  - (a) entered into before the date of the coming into force of these Regulations and which continues after that date; and
  - (b) who on the day before the day these Regulations come into force, is not a contributing member of the 1967 Scheme under the New Members Regulations.
- (4) If the contract in relation to a person to whom paragraph (3) applies is renewed, that person shall before the date of renewal give such notification as the Administrator requires as to whether or not he or she wishes to become an active member of the Scheme, and paragraph (2)(b) to (d) shall apply as if that person is employed under a fixed-term contract of employment entered into on or after the coming into force of these Regulations.
- (5) In the case of an employer admitted under paragraph 2 of Schedule 1, an employee of that employer is, subject to the terms of the admission agreement, entitled to become an active member.
- (6) A contributing member of the 1967 Scheme shall become an active member of the Scheme in accordance with Regulation 2, 3(2)(a) or (c), or 4 of the Transitional Regulations.

## **9 Restrictions on active membership**

- (1) An employee employed by an employer under a contract of employment which does not require the employer to provide the employee with any minimum working hours and does not require the employee to accept any of the working hours offered, is not eligible to become an active member of the Scheme.
- (2) A person aged 75 or over is not eligible to become an active member of the Scheme.
- (3) An active member of the Scheme who with the agreement of his or her employer is absent from his or her employment (other than by reason of child-related leave, ill-health, or injury) for a period not exceeding one year shall, during his or her period of absence, continue to be an active member but shall not be entitled –
  - (a) to make any contributions to the fund; or
  - (b) to accrue any pensionable service in respect of that period of absence,but, notwithstanding sub-paragraphs (a) and (b), a death in Scheme employment lump sum and a survivor pension shall (if applicable) be payable, should that member die during his or her period of absence.

## **10 Ending active membership**

A person ceases to be an active member of the Scheme –

- (a) on the day after he or she leaves Scheme employment;
- (b) notwithstanding that he or she has not left Scheme employment, on the day he or she attains the age of 75;

- (c) in the case of a person employed on a fixed-term contract of employment –
  - (i) on the day after the contract ends, or if the person is employed concurrently on more than one such contract, on the day after the last of the concurrent contracts ends,
  - (ii) who in accordance with Regulation 8(2)(b), notifies the Administrator that he or she no longer wishes to be an active member, on the day the contract is renewed, or if the person is employed concurrently on more than one such contract, on the day the last of the concurrent contracts is renewed; or
- (d) on the day the 6 months' notice referred to in paragraph 8 of Schedule 1, expires.

## **11 Deferred membership**

- (1) A person is a deferred member of the Scheme in relation to a period of active membership if –
  - (a) the person is no longer an active member of the Scheme;
  - (b) the person has not started to receive any retirement benefits under the Scheme in relation to that period of active membership; and
  - (c) the person has not reached the age of 75.
- (2) A person may be a deferred member of the Scheme –
  - (a) in respect of benefits accrued in relation to a period of active membership as an ordinary member of the Scheme, notwithstanding the fact that the same person is also concurrently an active uniformed member of the Scheme;
  - (b) in respect of benefits accrued in relation to a period of active membership as a uniformed member of the Scheme, notwithstanding the fact that the same person is also concurrently an active ordinary member of the Scheme; or
  - (c) in respect of benefits accrued in relation to a period of active membership, notwithstanding the fact that the same person is also concurrently a pensioner member of the Scheme in respect of benefits accrued in relation to another period of active membership.

## **12 Pensioner membership**

- (1) A person is a pensioner member of the Scheme if that person was formerly an active or deferred member of the Scheme and is in receipt of retirement benefits under the Scheme.
- (2) A person may be a pensioner member of the Scheme in respect of benefits accrued in relation to one period of active membership notwithstanding the fact that the same person is also concurrently an active or deferred member of the Scheme in respect of benefits accrued in relation to another period of active membership.

## **13 Survivor membership**

A person is a survivor member of the Scheme if that person is entitled to a survivor pension under any of Regulations 44 to 45.

## **PART 3**

### **CONTRIBUTIONS**

#### **14 Compulsory contributions and recovery of member contributions**

- (1) An active member and that member's employer must pay such contributions to the fund as are required under Part 3 of, and Schedules 1, 2 or 4 to the Funding and Valuation Regulations.
- (2) The recovery of any contributions or sum remaining due and not deducted under Regulation 11(8) of the Funding and Valuation Regulations may be effected as set out in paragraph (3).
- (3) Where the recovery of contributions or sum referred to in paragraph (2) concerns –
  - (a) an active member, his or her employer may deduct any outstanding amount due (in addition to the contributions deductible under Regulation 11(8) of the Funding and Valuation Regulations) from that member's pensionable pay; or
  - (b) an active, deferred, pensioner or deceased member, the Committee may make such recovery as a civil debt; or
  - (c) a deferred, pensioner or deceased member, the Administrator may make such recovery by deducting any outstanding amount due from any payment by way of benefits to or in respect of a person entitled to a pension or other benefits under the Scheme.

#### **15 Additional voluntary contributions**

- (1) An active member may apply to the Administrator to enter into an arrangement to pay additional voluntary contributions ("AVCs") to the fund so as to increase the amount of –
  - (a) annual retirement benefits to which that member is entitled upon retirement; and
  - (b) survivor pension to which a survivor member is entitled upon the death of that active member.
- (2) The amount by which an annual pension is increased through an AVC arrangement under paragraph (1) shall be determined by the Committee –
  - (a) upon the advice of the Actuary; and
  - (b) upon the basis that such an amount is not expected to incur any additional cost to the fund.
- (3) The payment of AVCs is subject to the allowable pension contribution deduction provisions under Article 131I of the Income Tax Law.
- (4) An application under paragraph (1) must be made in such manner as the Administrator requires and must specify whether the AVCs will be by way of –
  - (a) a single payment deducted from the member's weekly or monthly pensionable earnings (as the case may be) by a specified amount; or
  - (b) a regular contribution of a fixed percentage of, or specified amount of pensionable earnings deducted from the member's weekly or monthly pensionable earnings (as the case may be).



- (5) If at any time, as a result of actuarial advice, any change occurs or is likely to occur in respect of the amount referred to in paragraph (2), the Committee shall notify the member accordingly.
- (6) An active member may at any time apply to the Administrator to –
  - (a) enter into more arrangements under paragraph (1); or
  - (b) reduce or cancel the amount of AVCs deducted under an AVC arrangement.

## **16 Contributions during child-related leave**

- (1) An active member on child-related leave and that member's employer must pay contributions on pensionable earnings paid during that period of leave.
- (2) Where, during the period of child-related leave an active member's pensionable earnings are reduced, the member and that member's employer must pay contributions based upon the member's notional pensionable earnings in respect of the period of leave where the member's pensionable earnings are reduced.
- (3) This paragraph applies to an active member who intends to pay contributions in respect of child related leave in relation to which that member is not entitled to the payment of pensionable earnings.
- (4) Where paragraph (3) applies, and subject to paragraph (5), the active member must, before taking child-related leave, give notice in writing to the Administrator of the member's intention.
- (5) Where paragraph (3) applies and the active member is employed by an admitted employer, that member must, before giving notice under paragraph (4), obtain that employer's agreement to the payment of contributions in respect of unpaid child-related leave.
- (6) Where an active member and that member's employer are paying contributions in respect of unpaid child-related leave, those contributions shall be based upon the member's notional pensionable earnings in respect of that unpaid period of leave.

## **17 Contributions during absence for ill-health etc.**

- (1) Where an active member is absent from his or her employment by reason of ill-health or injury, that member and his or her employer must pay contributions on pensionable earnings paid during that period of absence.
- (2) If an active member's absence under this Regulation is for a period of up to 2 years and during that period –
  - (a) the member's pensionable earnings are reduced, the contributions payable by that member and his or her employer shall be based on the reduced amount of pensionable earnings paid in respect of that member; or
  - (b) the member is no longer entitled to the payment of pensionable earnings, that member and his or her employer shall cease to pay contributions.
- (3) For the purposes of calculating benefits accrued in respect of an active member to whom paragraph (2)(a) or (b) applies, that member shall be treated as if he or she, and his or her employer had paid contributions based upon the member's notional pensionable earnings in respect of the period of absence where the member's pensionable earnings were reduced or not paid.

## **18 Contributions in relation to reduced contractual salary**

- (1) This Regulation applies to an active member –
  - (a) who has had his or her contractual salary reduced because the nature of the member's employment or the skills or duties required in that employment have changed; or
  - (b) who has been re-deployed to a different employment in consequence of which that member's salary is reduced in relation to that employment.
- (2) Subject to paragraph (3) or (5), a member to whom this Regulation applies may within 3 months before the date on which the reduction takes effect, give notice in writing to the Administrator that the member wishes to continue to pay contributions based on the salary which the employer is paying to that member immediately before the date the reduction takes effect (the "accustomed salary rate").
- (3) A member must, before giving notice under paragraph (2), obtain his or her employer's agreement to the payment of contributions at the accustomed salary rate.
- (4) If an employer agrees to a member's request under paragraph (3) or if paragraph (5) applies, the employer must continue to pay contributions based on that member's salary immediately before the date the reduction takes effect.
- (5) Paragraph (3) does not apply to a member who is within 5 years of his or her normal pension age.
- (6) For the purposes of calculating benefits accrued in respect of a member who is paying contributions at the accustomed salary rate, that member shall be treated as if he or she is being paid a salary equal to the salary the member was being paid immediately before the date the reduction takes effect.
- (7) Contributions at the accustomed salary rate shall cease upon –
  - (a) the member giving notice in writing to the Administrator that he or she no longer wishes to pay contributions at that rate;
  - (b) the member being paid a salary in that employment in excess of the salary the member was being paid immediately before the date the reduction took effect; or
  - (c) the member ceasing active membership of the Scheme.

## **19 Deferred pension, refund of contributions or transfer value**

- (1) This paragraph applies to an active member who leaves Scheme employment having completed less than 5 years pensionable service including any earlier aggregated periods of service recorded within that member's active member pension record.<sup>5</sup>
- (2) A member to whom paragraph (1) applies shall be entitled –
  - (a) to a deferred pension once that member becomes so eligible under Regulation 29(5) or (6);
  - (b) to apply to the Administrator for a refund of –
    - (i) his or her contributions (under Regulation 14) in relation to that member's active membership,
    - (ii) AVCs under an arrangement in accordance with Regulation 15, or

- (iii) subject to Regulation 24(4) of the Administration Regulations, any contributions included in a transfer payment received under Regulation 23 of the Administration Regulations; or
  - (c) to apply to the Administrator for a transfer payment out of the fund in accordance with Regulation 22 of the Administration Regulations.<sup>6</sup>
- (3) If a member who has applied for a refund under paragraph (2)(b) dies before the payment is made, the Administrator must pay the sum due to the member's estate.
- (4) This paragraph applies to an active member who leaves Scheme employment having completed at least 5 years pensionable service including any earlier aggregated periods of service recorded within that member's active member pension record.<sup>7</sup>
- (5) A member to whom paragraph (4) applies shall be entitled to a deferred pension once that member becomes so eligible under Regulation 29(5) or (6), or to apply to the Administrator for a transfer payment out of the fund in accordance with Regulation 22 of the Administration Regulations.
- (6) A refund of contributions or a transfer payment under this Regulation shall –
  - (a) not be made until the former active member's employer has –
    - (i) paid the relevant amount of pensionable earnings due to that member, and
    - (ii) in accordance with the Funding and Valuation Regulations, paid into the fund the relevant amount of employer contributions;
  - (b) extinguish a former active 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 former active member's death.
- (7) Any application referred to under this Regulation shall be made in such manner as the Administrator requires.

## PART 4

### PENSION RECORDS

#### 20 Management of pension records

- (1) The Administrator shall establish and maintain one or more pension records for each active, deferred, pensioner or survivor member of the Scheme and a new record must be established on each occasion any active, deferred or pensioner member changes his or her membership of the Scheme.
- (2) A pension record may be kept in any form the Administrator considers appropriate and must contain such matters as are required by these Regulations.
- (3) A pension record must be closed if –
  - (a) a transfer payment out of the fund is made in accordance with Regulation 22 of the Administration Regulations, the effect of which is that the member is no longer entitled to any benefits from the Scheme in relation to that record;
  - (b) a refund of contributions is made following an application under Regulation 19(2)(b);
  - (c) a lump sum payment is made under any of Regulations 33 to 35;

- (d) the member dies;
  - (e) the last survivor member entitled to a benefit under a survivor member's pension record ceases to be entitled to a benefit under that record (by reason of death or upon ceasing to be an eligible child);
  - (f) due to the aggregation of the benefits under the record with a different record, it is no longer required; or
  - (g) all the benefits under the record are forfeited under Schedule 2.
- (4) Other than to correct an administrative error, a pension record can only be adjusted as a consequence of –
- (a) a transfer payment out of or into the fund in accordance with Regulations 22 and 23 of the Administration Regulations;
  - (b) a payment or allowance declared from a date earlier than consent is given under Regulation 6(3) and (4)(b);
  - (c) an award of increased retirement benefits under Regulation 41;
  - (d) a transfer into an active member's pension record from a deferred member pension record upon the merging of those records;
  - (e) the conversion of retirement benefits into a lump sum under Regulation 31 or 32;
  - (f) the payment of pensionable earnings received after the closure of a pension record;
  - (g) the Minister's determination to issue a forfeiture certificate under paragraph 4(1) of Schedule 2.

## **21 Active member pension record**

- (1) On 1st January of each scheme year, an active member's pension record must specify the opening balance for that year calculated in accordance with this Regulation.
- (2) At the end of each scheme year the opening balance mentioned in paragraph (1) shall be revalued in accordance with Regulation 9 of the Funding and Valuation Regulations.
- (3) At the end of each scheme year, the closing balance for an active member's pension record shall be calculated by taking the revalued opening balance mentioned in paragraph (2) and adding –
  - (a) the amount of earned pension (if any) for that scheme year;
  - (b) the amount of pension accrued during that scheme year attributable to the payment of AVCs under an arrangement in accordance with Regulation 15; and
  - (c) the sum resulting from any pension record adjustment referred to in Regulation 20(4) arising during that scheme year.
- (4) The closing balance calculated under paragraph (3) becomes the new opening balance for the next scheme year.
- (5) When an active member becomes a deferred or pensioner member or dies, a closing balance for that member's pension record shall, at the end of the calendar month in which that member ceases to be an active member, be calculated by adding the sum of –

- (a) the opening balance for the scheme year in which the active member becomes a deferred or pensioner member;
  - (b) the amount of earned pension (if any) for that scheme year;
  - (c) the amount of pension accrued during that scheme year attributable to the payment of AVCs under an arrangement in accordance with Regulation 15;
  - (d) the sum resulting from any pension record adjustment referred to in Regulation 20(4) arising during that scheme year,  
and applying the relevant revaluation rate or the revaluation rate as at 31st December of that scheme year (whichever is applicable).
- (6) In paragraph (5), the “relevant revaluation rate” means in respect of an active member who becomes a deferred or pensioner member, or dies before 31st December in a scheme year, the revaluation rate as at 31st December of the preceding year, applied pro-rata according to the number of days of pensionable service accrued by that member in the scheme year in which he or she becomes a deferred or pensioner member.
- (7) The closing balance calculated under paragraph (5) becomes the new opening balance for that member’s deferred or pensioner member pension record.

## **22 Deferred member pension record**

- (1) When an active member becomes a deferred member of the Scheme, the active member’s pension record must be closed and a deferred member pension record must be opened.
- (2) On the day the deferred member pension record is opened, the record must –
  - (a) specify an opening balance which is comprised of the closing balance calculated under Regulation 21(5); and
  - (b) specify the amount of any lump sum which that member has taken in accordance with Regulation 32.
- (3) Subject to paragraph (4), on 1st January of the scheme year following the scheme year in which the deferred member pension record is first opened (the “first scheme year”), the opening balance (referred to in paragraph (2)(a)) for the first scheme year shall have an annual pension increase applied in accordance with Regulation 8 of the Funding and Valuation Regulations.
- (4) The first annual pension increase shall, if required, be applied pro-rata to the opening balance according to the number of days in respect of which the deferred member pension record is open in the first scheme year.
- (5) The balance with the increase applied under paragraph (3) or (4) becomes the closing balance for that same scheme year, and that closing balance becomes the new opening balance for the next scheme year and thereafter on 1st January of each subsequent scheme year, the deferred member pension record opening balance for the previous scheme year shall be increased in accordance with Regulation 8 of the Funding and Valuation Regulations.
- (6) Subject to paragraphs (7) and (8), if a deferred member re-enters Scheme employment –
  - (a) the deferred member’s pension record must be closed and an active member pension record must be opened;

- (b) the closing balance for that member's deferred member pension record shall –
    - (i) be calculated by applying the annual pension increase as at 1st January of the scheme year in which that member re-enters Scheme employment, pro-rata to the opening balance for that deferred member pension record, according to the number of days in respect of which that pension record was open in that scheme year, and
    - (ii) become the new opening balance for that member's active member pension record;
  - (c) the new opening balance referred to in sub-paragraph (b)(ii) shall be revalued in accordance with Regulation 21(2) and if required, by the relevant revaluation rate (construed in accordance with Regulation 21(6)) applied pro-rata according to the number of days of pensionable service accrued by that member in the scheme year in which he or she becomes an active member.
- (7) This paragraph applies to –
- (a) a deferred ordinary member who re-enters Scheme employment as a uniformed member; and
  - (b) a deferred uniformed member who re-enters Scheme employment as an ordinary member.
- (8) Where paragraph (7) applies, on re-entering Scheme employment, an active member pension record must be opened in respect of the person concerned, but that person's deferred member pension record shall, notwithstanding paragraph (6)(a), remain open and operate concurrently with that person's active member pension record.
- (9) The closing and opening balance for an active member pension record opened under paragraph (8) shall be calculated in accordance with Regulation 21, and the closing and opening balance for the concurrent deferred member pension record referred to in paragraph (8) shall continue to be calculated in accordance with paragraph (5).

### **23 Pensioner member pension record – active member**

- (1) When an active member becomes a pensioner member of the Scheme, the active member's pension record must be closed and a pensioner member pension record must be opened.
- (2) On the day the pensioner member pension record is opened, the record must –
  - (a) specify an opening balance which is comprised of the closing balance referred to in Regulation 21(7) –
    - (i) less any reduction applied under Regulation 29(7),
    - (ii) less any amount of retirement benefits exchanged in accordance with Regulation 31,
    - (iii) plus any enhancement applied as a result of –
      - (A) enhanced retirement benefits under Regulation 29(4), or
      - (B) an enhanced level ill-health pension under Regulation 38; and
  - (b) specify the amount of any –
    - (i) reduction applied under Regulation 29(7),

- (ii) benefits exchanged in accordance with Regulation 31 or 32, or
  - (iii) enhancement referred to in sub-paragraph (a)(iii).
- (3) Subject to paragraph (4), on 1st January of the scheme year following the scheme year in which the pensioner member pension record is first opened (the “first scheme year”), the opening balance (referred to in paragraph (2)(a)) for the first scheme year shall have an annual pension increase applied in accordance with Regulation 8 of the Funding and Valuation Regulations.
- (4) The annual pension increase shall, if required, be applied pro-rata to the opening balance according to the number of days in respect of which the pensioner member pension record is open in the first scheme year.
- (5) The balance with the increase applied under paragraph (3) or (4) becomes the closing balance for that same scheme year, and that closing balance becomes the new opening balance for the next scheme year and thereafter on 1st January of each subsequent scheme year, the pensioner member pension record opening balance for the previous scheme year shall be increased in accordance with Regulation 8 of the Funding and Valuation Regulations.

#### **24 Pensioner member pension record – deferred member**

- (1) When a deferred member becomes a pensioner member of the Scheme, the deferred member’s pension record must be closed and a pensioner member pension record must be opened.
- (2) On the day the pensioner member pension record is opened, the record must –
  - (a) specify an opening balance which is comprised of the closing balance referred to in Regulation 22(5) –
    - (i) less any reduction applied under Regulation 29(7),
    - (ii) less any amount of retirement benefits exchanged in accordance with Regulation 31; and
  - (b) specify the amount of any –
    - (i) reduction applied under Regulation 29(7), or
    - (ii) benefits exchanged in accordance with Regulation 31 or 32.
- (3) Subject to paragraph (4), on 1st January of the scheme year following the scheme year in which the pensioner member pension record is first opened (the “first scheme year”), the opening balance (referred to in paragraph (2)(a)) for the first scheme year shall have an annual pension increase applied in accordance with Regulation 8 of the Funding and Valuation Regulations.
- (4) The annual pension increase shall, if required, be applied pro-rata to the opening balance according to the number of days in respect of which the pensioner member pension record is open in the first scheme year.
- (5) The balance with the increase applied under paragraph (3) or (4) becomes the closing balance for that same scheme year and that closing balance becomes the new opening balance for the next scheme year and thereafter on 1st January of each subsequent scheme year, the pensioner member pension record opening balance for the previous scheme year shall be increased in accordance with Regulation 8 of the Funding and Valuation Regulations.
- (6) Where, before 31st December in a scheme year, a deferred member becomes a pensioner member or dies, the pension increase in respect of that year shall be

applied pro-rata to the closing balance of that deferred member pension record, according to the number of days in respect of which the deferred member pension record was open in that scheme year.

## **25 Survivor member pension record – deceased active member**

- (1) In accordance with Regulation 20(3)(d), on the death of an active member, his or her active member pension record shall be closed and one or more survivor member pension records shall be opened from the day following the member's death.
- (2) The closing balance of the deceased member's active member pension record is the amount of pension accrued up to date of death.
- (3) On the day the survivor member pension record is opened, the record must specify –
  - (a) an opening balance which shall be comprised of the amount of pension calculated under Regulation 44(2) or (5) or Regulation 47 payable to the deceased active member's surviving partner, dependant or eligible child, minus any reduction applied under Regulation 46;
  - (b) the amount of any death in Scheme employment lump sum paid under Regulation 43; and
  - (c) the date from which the pension is to be paid.
- (4) Subject to paragraph (5), on 1st January of the scheme year following the scheme year in which the survivor member pension record is first opened (the "first scheme year"), the opening balance (referred to in paragraph (3)(a)) for the first scheme year shall have an annual pension increase applied in accordance with Regulation 8 of the Funding and Valuation Regulations.
- (5) The annual pension increase shall, if required, be applied pro-rata to the opening balance according to the number of days in respect of which the survivor member pension record is open in the first scheme year.
- (6) The opening balance with the increase applied under paragraph (4) or (5) becomes the closing balance for that same scheme year and that closing balance becomes the new opening balance for the next scheme year and thereafter on 1st January of each subsequent scheme year, the survivor member pension record opening balance for the previous scheme year shall be increased in accordance with Regulation 8 of the Funding and Valuation Regulations.

## **26 Survivor member pension record – deceased deferred member**

- (1) In accordance with Regulation 20(3)(d), on the death of a deferred member, his or her deferred member pension record shall be closed and one or more survivor member pension records shall be opened from the day following the member's death.
- (2) The closing balance of the deceased member's deferred member pension record is the amount of pension accrued up to date of death with the pension increase applied pro-rata to that closing balance, according to the number of days in respect of which the deferred member pension record was open in that scheme year.
- (3) On the day the survivor member pension record is opened, the record must specify –



- (a) an opening balance which shall be comprised of the amount of pension calculated under Regulation 45(2) or (4) or Regulation 47 payable to the deceased deferred member's surviving partner, dependant or eligible child, minus any reduction applied under Regulation 46; and
  - (b) the date from which the pension is to be paid.
- (4) Subject to paragraph (5), on 1st January of the scheme year following the scheme year in which the survivor member pension record is first opened (the "first scheme year"), the opening balance (referred to in paragraph (3)(a)) for the first scheme year shall have an annual pension increase applied in accordance with Regulation 8 of the Funding and Valuation Regulations.
- (5) The annual pension increase shall, if required, be applied pro-rata to the opening balance according to the number of days in respect of which the survivor member pension record is open in the first scheme year.
- (6) The balance with the increase applied under paragraph (4) or (5) becomes the closing balance for that same scheme year and that closing balance becomes the new opening balance for the next scheme year and thereafter on 1st January of each subsequent scheme year, the survivor member pension record opening balance for the previous scheme year shall be increased in accordance with Regulation 8 of the Funding and Valuation Regulations.

## **27 Survivor member pension record – deceased pensioner member**

- (1) In accordance with Regulation 20(3)(d), on the death of a pensioner member, his or her pensioner member pension record shall be closed and one or more survivor member pension records shall be opened from the day following the member's death.
- (2) The closing balance of the deceased member's pensioner member pension record is the amount of pension which would have been payable to that member on the day following his or her death.
- (3) On the day the survivor member pension record is opened, the record must specify –
  - (a) an opening balance which shall be comprised of the amount of pension calculated under Regulation 45(2) or (4) or Regulation 47 payable to the deceased pensioner member's surviving partner, dependant or eligible child, minus any reduction applied under Regulation 46; and
  - (b) the date from which the pension is to be paid.
- (4) Subject to paragraph (5), on 1st January of the scheme year following the scheme year in which the survivor member pension record is first opened (the "first scheme year"), the opening balance (referred to in paragraph (3)(a)) for the first scheme year shall have an annual pension increase applied in accordance with Regulation 8 of the Funding and Valuation Regulations.
- (5) The annual pension increase shall, if required, be applied pro-rata to the opening balance according to the number of days in respect of which the survivor member pension record is open in the first scheme year.
- (6) The balance with the increase applied under paragraph (4) or (5) becomes the closing balance for that same scheme year and that closing balance becomes the new opening balance for the next scheme year and thereafter on 1st January of each subsequent scheme year, the survivor member pension record opening balance for

the previous scheme year shall be increased in accordance with Regulation 8 of the Funding and Valuation Regulations.

- (7) Where, before 31st December in a scheme year, a pensioner member dies, the pension increase in respect of that year shall be applied pro-rata to the closing balance of that pensioner member pension record, according to the number of days in respect of which the pensioner member pension record was open in that scheme year.

## PART 5

### RETIREMENT BENEFITS

#### *Retirement at, before or after normal pension age*

#### **28 Normal pension age – exception**

The normal pension age of a person referred to in Article 9(1) of the Law shall not apply to a uniformed member of the Scheme and the normal pension age for such a person shall be 60.

#### **29 Retirement benefits**

- (1) An active member who attains normal pension age shall, upon leaving Scheme employment, be entitled to the payment of retirement benefits without actuarial reduction.
- (2) An active member who attains normal pension age, but who does not leave Scheme employment, may defer payment of his or her retirement benefits to any date after that member's normal pension age up to the date when that member attains the age of 75.
- (3) Where paragraph (2) applies, the member and his or her employer must continue to pay their respective contributions as required under the Funding and Valuation Regulations.
- (4) A member who under paragraph (2) starts to receive payment of retirement benefits from a date after his or her normal pension age is entitled to enhancement of those benefits by a cost neutral amount.
- (5) A deferred member who attains normal pension age shall be entitled to the payment of retirement benefits without actuarial reduction.
- (6) Subject to paragraph (7) –
- (a) an active or deferred ordinary member who is within 10 years of, but has not attained, his or her normal pension age; or
- (b) an active or deferred uniformed member who is within 5 years of, but has not attained, his or her normal pension age,
- may request the Administrator to arrange the payment of that member's retirement benefits.
- (7) Retirement benefits paid under paragraph (6) shall be actuarially reduced by a cost neutral amount and in the case of an active member, that member is not entitled to those benefits until he or she has left Scheme employment.

- (8) Regulation 42 applies for the purposes of the payment of retirement benefits under this Regulation.

### **30 Voluntary early retirement**

- (1) An employer, with the consent of the Minister, may subject to paragraph (2) offer voluntary early retirement to an active member.
- (2) To be eligible for voluntary early retirement a member to whom paragraph (1) applies must –
- (a) have attained at least age 55 but not have attained normal pension age; and
  - (b) have volunteered to retire in consequence of the termination of his or her employment –
    - (i) by reason of redundancy, or
    - (ii) by mutual consent on the grounds of business efficiency.
- (3) An eligible member under paragraph (2) shall be entitled to receive payment of retirement benefits calculated as at the date he or she leaves Scheme employment, actuarially reduced by a cost neutral amount.
- (4) An employer may, at the request of an eligible member, pay into the fund from the moneys awarded to that member as a consequence of the termination of his or her employment, a lump sum of such an amount as the member requires, for the purchase of additional pension.
- (5) The Actuary shall advise the Committee on the amount of additional pension purchased under paragraph (4).
- (6) The Committee shall notify the Administrator of the amount so advised under paragraph (4) and which must be credited to the opening balance of the eligible member's pensioner member pension record in the year in which that record is opened.
- (7) The Actuary shall, before the end of every financial year provide a report to the Committee certifying the costs to the fund arising in the previous financial year which are attributable to the employer, as a consequence of an eligible member's retirement under this Regulation.
- (8) Where, under paragraph (7) the Actuary has certified an amount of additional costs to the fund, the Committee shall require the employer to pay the whole of that amount into the fund.

*Alteration of how and when benefits may be taken*

### **31 Conversion of retirement benefits into lump sum**

- (1) Subject to Regulation 32(6) –
- (a) an active or deferred member who is entitled to the payment of his or her accrued retirement benefits under Regulation 29 (with or without actuarial reduction);
  - (b) an active member who is offered voluntary retirement under Regulation 30; or
  - (c) an active member who is eligible to receive an ill-health pension,

may apply to the Administrator to exchange up to 30% of the amount of those benefits for a lump sum payment.

- (2) If a member makes an application under paragraph (1), when those benefits become payable, the sum of £13.50 shall be paid per £1.00 of retirement benefits exchanged, so as to produce the lump sum payment.
- (3) The amount of retirement benefits once exchanged, may not be varied.
- (4) An application under this Regulation, Regulation 32 or 33 shall be made in such manner as the Administrator requires.

### **32 Conversion of retirement benefits into lump sum whilst in Scheme employment**

- (1) This Regulation applies to –
  - (a) an active ordinary member of the Scheme who is within 10 years of, but has not attained, his or her normal pension age; or
  - (b) an active uniformed member of the Scheme who is within 5 years of, but has not attained, his or her normal pension age.
- (2) A member to whom this Regulation applies may apply to the Administrator to exchange up to 30% of the amount of his or her retirement benefits accrued as at the date of the application, for a lump sum payment payable whilst that member remains in Scheme employment.
- (3) If a member makes an application under paragraph (2), the sum of £13.50 shall be paid per £1.00 of retirement benefits exchanged, so as to produce the lump sum payment which shall be actuarially reduced by a cost neutral amount.
- (4) The amount of retirement benefits once exchanged, may not be varied.
- (5) The amount of retirement benefits accrued as at the date of the application shall be reduced by the percentage amount that the member has applied to exchange; and –
  - (a) the remaining balance of accrued benefits; and
  - (b) the amount of the lump sum payment,shall be recorded in that member's active member pension record.
- (6) A member who has received a lump sum payment under this Regulation is not entitled to make an application under Regulation 31.

### **33 Conversion of retirement benefits into lump sum – terminal illness**

- (1) This Regulation applies to an active member who is eligible to payment of an ill-health pension under Regulation 36 and who the Independent Occupational Health Adviser certifies as having a life expectancy of 12 months or less.
- (2) A member to whom this Regulation applies may apply to the Administrator to exchange the whole of his or her retirement benefits accrued as at the date of the application, for a lump sum payment equal to –
  - (a) the maximum lump sum to which the member could have become entitled had he or she made an application under Regulation 31(1)(c) as soon as the member's employer decided that he or she was eligible to an ill-health pension; and
  - (b) the remaining balance of accrued retirement benefits after the exchange effected under paragraph (a), multiplied by 5,

which shall be payable immediately the member leaves Scheme employment.

- (3) A lump sum payment under this Regulation shall extinguish a former active member's rights to any other benefits under the Scheme, but shall not extinguish the rights of any person contingently entitled to any benefit payable upon that former active member's death.

### **34 Conversion of retirement benefits into lump sum not exceeding £30,000**

- (1) An active or deferred member may apply to the Administrator to receive a lump sum by way of exchange of the capital value of all his or her retirement benefits accrued under the Scheme provided that at the time the application is made –
- (a) the member has attained the age of 60;
  - (b) the member's accrued retirement benefits under Regulation 29 are not in payment; and
  - (c) the aggregate of the following amounts does not exceed £30,000 –
    - (i) the capital value of the member's benefits accrued under the Scheme,
    - (ii) all lump sums that the member has previously exchanged –
      - (A) under Article 131CE of the Income Tax Law, or
      - (B) before the commencement of the Income Tax (Amendment No. 44) (Jersey) Law 2014, under any of the previous trivial commutation provisions referred to in Article 131CE(2) of the Income Tax Law.
- (2) An exchange under paragraph (1) is not permitted where the capital value of the member's accrued benefits 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).
- (3) An application under paragraph (1) shall be made in such form and manner as the Administrator 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 –
- (a) 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 within 3 months of the date of the application under paragraph (1); and
  - (b) extinguish the 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.

### **35 Conversion of retirement benefits into lump sum not exceeding £18,000**

- (1) A deferred member may apply to the Administrator to receive a lump sum by way of exchange of the capital value of all his or her retirement benefits accrued under the Scheme provided that at the time the application is made –
- (a) the member has ceased Scheme employment;

- (b) the member's accrued retirement benefits under Regulation 29 are not in payment;
  - (c) the member's former employer is not making any contributions on the member's behalf to another approved Jersey scheme; and
  - (d) the value of the member's benefits accrued under the Scheme do not exceed £18,000.
- (2) An exchange under paragraph (1) is not permitted where the capital value of the member's accrued benefits 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).
- (3) An application under paragraph (1) shall be made in such form and manner as the Administrator 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 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 the member's death.

#### *Ill-health retirement*

### **36 Early payment of retirement benefits on ill-health grounds**

- (1) Retirement benefits payable under this Regulation shall be known as an ill-health pension and may be paid at 2 different levels –
- (a) the standard level; or
  - (b) the enhanced level.
- (2) An ill-health pension under paragraph (1) is payable to an active member –
- (a) who has completed 2 or more years pensionable service; and
  - (b) whose employment is terminated on the grounds of ill-health, or mental or physical impairment, before that member attains normal pension age,
- provided that member's employer is satisfied that he or she meets the condition set out in paragraph (3).
- (3) The condition is that the member, as a result of ill-health, or mental or physical impairment is permanently incapable of efficiently performing the duties of the Scheme employment in which he or she is engaged.
- (4) A member who meets the condition in paragraph (3) is eligible to receive –
- (a) the standard level ill-health pension if his or her employer is satisfied that the member is likely to be able to engage in any other employment (whether Scheme employment or otherwise) before he or she attains normal pension age;
  - (b) the enhanced level ill-health pension if his or her employer is satisfied that the member is unlikely to be able to engage in any employment before he or she attains normal pension age.

### 37 Role of Independent Occupational Health Adviser

- (1) A decision as to whether a member is eligible under Regulation 36 to payment of an ill-health pension, and if so whether it should be at the standard level or enhanced level, shall be made by the member's employer after that employer has obtained a certificate from the Independent Occupational Health Adviser as to –
  - (a) whether the member satisfies the condition set out in Regulation 36(3); and
  - (b) the likelihood or not (as the case may be) of the member being capable of engaging in an employment before he or she attains normal pension age.
- (2) The Independent Occupational Health Adviser from whom the certificate is obtained under paragraph (1) must not have previously advised, or given an opinion on, or otherwise been involved in the particular case for which the certificate has been requested.

### 38 Pension records and calculation of ill-health pension

- (1) When an ill-health pension becomes payable under Regulation 36 –
  - (a) it shall be payable to the member as if he or she had attained normal pension age on the date the member's employment is terminated on the grounds of ill-health, or mental or physical impairment;
  - (b) the member's active member pension record shall be closed and a pensioner member pension record shall be opened in accordance with Regulation 23(1); and
  - (c) the amount of standard level ill-health pension payable shall be calculated by reference to the pensioner member pension record opening balance required under Regulation 23(2).
- (2) If a member is eligible to receive the enhanced level ill-health pension, the amount of pension he or she receives shall be enhanced in accordance with paragraph (3).
- (3) The amount of enhancement is calculated by –
  - (i) awarding an additional period of notional service specified in column 2 of the table by reference to the number of years of pensionable service accrued by the eligible member, specified in column 1 of the table, and
  - (ii) applying the amount of notional pensionable earnings that member would have been paid over the additional period specified in column 2 of the table (calculated in accordance with Regulation 5), at the accrual rate applicable as at the date member's employment is terminated as described in Regulation 36(2) –

1	2
<b>Pensionable service accrued in last continuous period of employment</b>	<b>Additional period of notional service</b>
Not exceeding 5 years	nil
Exceeding 5 years but not exceeding 10 years	a period of the same length as in column 1

Exceeding 10 years but not exceeding 13 $\frac{1}{3}$ years	a period that increases the period in column 1 to 20 years
Exceeding 13 $\frac{1}{3}$ years	6 $\frac{2}{3}$ years

- (4) The additional period referred to in column 2 of the table shall be limited so that the member's pensionable service (as notionally increased by the additional period) does not exceed the period of pensionable service which would have applied if the member had remained in Scheme employment until normal pension age.

### 39 Review of entitlement to ill-health pension

- (1) The Committee may, from time to time, require a person in receipt of an ill-health pension and who has not attained normal pension age, to undergo such medical examination as the Committee determines and in any case where the person refuses to undergo an examination the person's pension or such part of it as the Committee deems appropriate shall be suspended until such time as the person undertakes that examination.
- (2) If as a result of a medical examination carried out under paragraph (1), the Committee is advised that a person in receipt of –
- (a) the enhanced level ill-health pension, is capable of engaging in any employment before he or she attains normal pension age, that person's enhanced level ill-health pension shall, from such date as the Committee determines, be substituted with the standard level ill-health pension the amount of which shall be calculated in accordance with Regulation 38(1)(c) as if the person had at the date of his or her ill-health retirement been awarded the standard level ill-health pension; or
  - (b) either the standard level ill-health pension or the enhanced level ill-health pension, is capable of efficiently performing the duties of the Scheme employment in which he or she was formerly engaged, that person shall, from such date as the Committee determines, cease to receive an ill-health pension.
- (3) Where paragraph (2)(b) applies –
- (a) the person's pensioner member pension record shall be closed and a deferred member pension record shall be opened; and
  - (b) the closing balance for the pensioner member pension record shall be calculated as if it were a closing balance referred to in Regulation 23(5) with the deduction of any enhancement applied under Regulation 38(2), and that balance shall become the opening balance for that person's deferred member pension record.

### 40 Inappropriate award of ill-health pension

- (1) This Regulation applies if as a result of a medical examination carried out under Regulation 39(1), the Committee is advised that a person in receipt of an ill-health pension should not have been determined by that person's former employer as satisfying the condition set out in Regulation 36(3).
- (2) The Committee may after –
- (a) considering such medical reports as the Committee deems necessary; and



- (b) consulting the Actuary,  
require that person's former employer to meet such costs as are attributable to the payment of that ill-health pension, as determined by the Actuary.

*Increased retirement benefits and commencement of retirement benefits*

**41 Increased retirement benefits at request of employer**

- (1) Subject to paragraph (2), the Administrator shall, at the request of an employer, increase the amount of retirement benefits payable under the Scheme in respect of –
  - (a) an employee or former employee; or
  - (b) any specified class, category or description of such an employer's employees or former employees,in accordance with this Regulation.
- (2) An increase referred to in paragraph (1) shall only be applied if the Administrator is satisfied that –
  - (a) the request is the result of an agreement between the employer and any of the employees described in paragraph (1); and
  - (b) in the case of a former employee, the agreement applies retrospectively, and in the case of more than one employee described under paragraph (1)(b), the agreement applies to some or all of them.
- (3) Retirement benefits shall –
  - (a) be increased by such an amount as the employer determines as representing an increase to the accrual of benefits under the Scheme;
  - (b) not be increased in any case where the total benefits that would result, would be more than any limits imposed by the Comptroller of Taxes under the Income Tax Law;
  - (c) not be increased more than 12 months after an employee enters or re-enters Scheme employment, unless the Minister in any particular case agrees to extend that period.
- (4) If increased retirement benefits are payable under this Regulation, the employer shall pay to the fund the additional contributions that the Committee, after receiving the advice of the Actuary, determines is equal to the value of the increased benefits paid.
- (5) The additional contributions shall be paid in full by the time the increased benefits under this Regulation become payable and may consist of –
  - (a) a single cash payment to the fund;
  - (b) a series of cash payments to the fund over a period; or
  - (c) a combination of the payments referred to in sub-paragraphs (a) and (b),as determined by Committee after receiving the advice of the Actuary.
- (6) The Actuary shall, before the end of every financial year provide a report to the Committee certifying the costs to the fund arising in the previous financial year which are attributable to the employer as a consequence of the operation of this

Regulation, such costs being calculated as the aggregate of the additional contributions required under paragraphs (4) and (5).

#### **42 Commencement of retirement benefits**

- (1) In relation to an active member, retirement benefits under Regulation 29(1), (2) and (6), Regulation 30 and Regulation 36 shall be paid at the end of the month following the month in which the member leaves Scheme employment or attains age 75 (as the case may be), and thereafter shall be paid at the end of each month until the relevant pensioner member pension record is closed.
- (2) In relation to a deferred member, retirement benefits under Regulation 29(5) and (6) shall, in respect of the first payment, be payable as soon as administratively possible and thereafter at the end of each month until the relevant pensioner member pension record is closed.

### **PART 6**

#### **SURVIVOR BENEFITS**

##### *Partners' and dependants' benefits*

#### **43 Death in Scheme employment – lump sum benefit**

- (1) In this Regulation “lump sum recipients” in relation to a deceased active member, means –
  - (a) any of that member’s dependants or relatives;
  - (b) any individual or person (including a person referred to in sub-paragraph (a)) nominated by that member, on such form as the Administrator requires, to receive the whole or any part of a death in Scheme employment lump sum; or
  - (c) that member’s estate.
- (2) If an active member dies before attaining the age of 75, the Committee shall pay a death in Scheme employment lump sum to or for the benefit of one or more of that member’s lump sum recipients.
- (3) If, other than the deceased active member’s estate, there is more than one lump sum recipient, the Committee shall at its absolute discretion determine which of those lump sum recipients and in what proportions the lump sum shall be payable.
- (4) The death in Scheme employment lump sum shall be of an amount equal to 3 times the deceased active member’s notional pensionable earnings calculated in accordance with Regulation 5.
- (5) Where an active member dies whilst absent –
  - (a) on leave due to ill-health or injury; or
  - (b) under Regulation 9(3),that member shall be taken to have been paid notional pensionable earnings equivalent to the annual pensionable earnings he or she would have been paid

- (calculated in accordance with Regulation 5) had that member not otherwise been absent.
- (6) If the Committee has not made payments under paragraphs (2) and (3) equalling in aggregate the full amount of the death in Scheme employment lump sum before the expiry of –
- (a) 2 years beginning with the date of the member’s death; or
  - (b) 2 years beginning with the date on which the Committee could reasonably be expected to have become aware of the member’s death,
- it must pay an amount equal to the shortfall to the member’s estate.
- (7) In paragraph (1)(a) “relatives” means any of the following persons –
- (a) spouse;
  - (b) surviving civil partner or surviving nominated co-habiting partner;
  - (c) son or daughter;
  - (d) brother or sister;
  - (e) grandparent;
  - (f) grandchild;
  - (g) uncle or aunt;
  - (h) nephew or niece.

#### **44 Survivor pension – partners and dependants of deceased active members**

- (1) If an active member dies leaving a surviving partner, that partner is entitled to a pension which shall come into payment on the day following the member’s death.
- (2) A pension payable under paragraph (1) shall consist of 50% of the retirement benefits the deceased active member –
- (a) had accrued up to the date of death (disregarding any amount by which those benefits have been reduced if any exchange has been effected under Regulation 32); and
  - (b) would have accrued from the date of death until attaining normal pension age at the accrual rate applicable as at the date of the member’s death, calculated in accordance with Regulation 5, but
- subject to any reduction applied under Regulation 46.
- (3) Where, for the purposes of calculating the amount of benefits accrued up to the date of death, an active member died whilst absent –
- (a) on leave due to ill-health or injury; or
  - (b) from employment under Regulation 9(3),
- that member shall be taken to have been paid notional pensionable earnings equivalent to the annual pensionable earnings he or she would have been paid (calculated in accordance with Regulation 5) had that member not otherwise been absent.
- (4) If a deceased active member leaves no surviving partner, a pension shall be payable to any person who satisfies the Committee that he or she is a dependant of that member.
- (5) A pension payable under paragraph (4) shall –

- (a) if there is only one dependant, be of an amount equal to that which would have been payable in respect of a surviving partner calculated under paragraph (2); or
- (b) if there is more than one dependant, be of an amount equal to that which would have been payable in respect of a surviving partner calculated under paragraph (2), divided into 2 equal parts with –
  - (i) the first part being distributed equally amongst the dependants, and
  - (ii) the second part being distributed to one or more of the dependants in such proportions as the Committee determines, andon the death of any such dependant, each part shall be redistributed amongst the remaining dependants accordingly.

#### **45 Survivor pension – partners and dependants of deceased deferred or pensioner members**

- (1) If a deferred or pensioner member dies leaving a surviving partner, that partner is entitled to a pension which shall come into payment on the day following the member's death.
- (2) A pension payable under paragraph (1) shall consist of 50% of the retirement benefits (disregarding any amount by which those benefits have been reduced if any exchange has been effected under Regulation 31 or 32, as the case may be) the deceased deferred or pensioner member would, subject to any reduction applied under Regulation 46, have received on the day following his or her death.
- (3) If a deceased deferred or pensioner member leaves no surviving partner, a pension shall be payable to any person who satisfies the Committee that he or she is a dependant of that member.
- (4) A pension payable under paragraph (3) shall –
  - (a) if there is only one dependant, be of an amount equal to that which would have been payable in respect of a surviving partner calculated under paragraph (2); or
  - (b) if there is more than one dependant, be of an amount equal to that which would have been payable in respect of a surviving partner calculated under paragraph (2), divided into 2 equal parts with –
    - (i) the first part being distributed equally amongst the dependants, and
    - (ii) the second part being distributed to one or more of the dependants in such proportions as the Committee determines, andon the death of any such dependant, each part shall be redistributed amongst the remaining dependants accordingly.

#### **46 Amount of survivor pension – reduction in specific cases**

- (1) In this Regulation “dependant” means a person falling under paragraph (a) or (b) of the definition “dependant” under Regulation 1.
- (2) Subject to paragraph (3), where a surviving partner or dependant entitled to a pension under Regulation 44 or 45 is younger than the deceased member by 20 years or more on the day on which he or she dies, a reduction of 2.5% for each year by which the deceased member's age is 20 years or more than that of the

surviving partner or dependant, shall be applied to the amount of pension that would otherwise be payable to that surviving partner or dependant.

- (3) The application of a reduction under paragraph (2) shall not operate so as to reduce a surviving partner's or dependant's pension by more than 50%.
- (4) For the purposes of paragraph (2), a part of a year shall be treated as a whole year.

### *Children's pensions*

#### **47 Children's pension – children of deceased active, deferred or pensioner members**

- (1) If an active, deferred or pensioner member ("member") dies leaving one or more eligible children, those children shall be entitled to a children's pension which shall come into payment on the day following the member's death.
- (2) If a member dies leaving a surviving partner or a dependant, a pension payable under paragraph (1) shall be payable to that partner or dependant in respect of, and to be applied for the benefit of an eligible child, consisting of an amount equal to 50% of the retirement benefits payable to that surviving partner or dependant in accordance with Regulation 44(2) or 45(2) (as the case may be).
- (3) If a member dies leaving a surviving partner or dependant and 2 or more eligible children the pension payable in respect of those children shall consist of an amount equal to 100% of the retirement benefits payable to that surviving partner or dependant divided equally by the number of children.
- (4) The Committee, if it is satisfied that an eligible child is in the care of, or is being maintained by a person other than the surviving partner, may at its absolute discretion pay the children's pension to that other person to be applied for the benefit of that child.
- (5) If a member dies leaving no surviving partner or dependant, or if a surviving partner or all of that member's dependants die after a survivor pension has come into payment, the amount of children's pension shall be doubled.
- (6) When an eligible child ceases to be eligible to receive a pension or if an eligible child has his or her pension temporarily suspended under paragraph (8), the amount payable –
  - (a) in respect of any other eligible child, shall be equal to the amount payable under paragraph (2) or (5) (as the case may be); or
  - (b) if there is more than one eligible child, shall be of an amount equal to the amount payable under paragraph (3) or (5) (as the case may be).
- (7) This paragraph applies in relation to an eligible child aged 18 or over but under the age of 23 who is not for the time being in full-time education or vocational training.
- (8) Where paragraph (7) applies, the Committee may temporarily suspend payment of a children's pension, if, having considered such evidence as is provided on behalf of the child, it is satisfied that the child is expected to engage in, or resume full-time education or vocational training before the age of 23.
- (9) A decision under paragraph (8) may be varied in the light of further evidence.
- (10) When payment of a children's pension resumes following temporary suspension under paragraph (8) –

- (a) that pension shall have such annual pension increase applied in accordance with Regulation 8 of the Funding and Valuation Regulations, as if it had continued to be a pension in payment; and
  - (b) the amount payable in respect of any other eligible child as increased under paragraph (6) shall be decreased accordingly.
- (11) The Committee may from time to time request in respect of an eligible child who is aged 18 or over (but under the age of 23), such evidence as the Committee requires –
- (a) regarding that child’s full-time education or vocational training; or
  - (b) regarding that child’s physical or mental impairment, if he or she is not otherwise engaged in gainful employment because of physical or mental impairment, and
- if such evidence is not supplied or is not in the opinion of the Committee satisfactory, the children’s pension may be suspended until such evidence is supplied or satisfies the Committee.

## **PART 7**

### **MISCELLANEOUS AND CLOSING PROVISIONS**

#### *General matters*

#### **48 Interest on late payment of Scheme benefits**

- (1) Where the Administrator has failed to pay some or all of any retirement benefits under Part 5 within one year of the date those benefits became payable, the Committee shall pay out of the fund, interest on the unpaid amount to the person in respect of whom those benefits are payable.
- (2) Where the Committee has failed to pay some or all of any survivor benefits under Part 6 within one year of the date on which the Committee has determined to pay those benefits, the Committee shall pay out of the fund, interest on the unpaid amount to the person in respect of whom those benefits are payable.
- (3) Interest payable under this Regulation is calculated at the Bank of England base rate on a day to day basis from the date on which the benefits were payable, and compounded with yearly rests.

#### **49 Bankruptcy and non-assignment of Scheme benefits**

- (1) If an active, deferred or pensioner member becomes bankrupt, no part of his or her retirement benefits under the Scheme are assignable or chargeable with that member’s or any other person’s debts or liabilities, but at the date such benefits become payable under these Regulations, those benefits –
  - (a) shall vest in the Committee who may at its absolute discretion pay such benefits –
    - (i) to the member, or
    - (ii) to that member’s husband or wife, nominated cohabiting partner, civil partner or dependant; or

- (b) shall, where the member has died, vest in the Committee, who may at its absolute discretion pay such benefits to the member's surviving partner, eligible child or dependant in accordance with Part 6.
- (2) For the purposes of paragraph (1)(a)(ii), "dependant" means in relation to an active, deferred or pensioner member who has not died –
  - (a) a child, if that child is a natural or adopted child of that member, or is a step-child or child accepted by that member as a member of the family and is dependent on that member, and –
    - (i) is under the age of 18,
    - (ii) is under the age of 23 and is in full-time education or vocational training, or
    - (iii) is under the age of 23 and, in the opinion of the Committee, is not otherwise able to engage in gainful employment because of physical or mental impairment; or
  - (b) a person other than a child referred to in sub-paragraph (a), if, in the opinion of the Committee –
    - (i) the person is financially dependent on that member for the provision of most of the ordinary necessities of life,
    - (ii) the person is in a mutually dependent financial relationship with that member, or
    - (iii) the person is dependent on that member because of physical or mental impairment which, subject to such medical examination of the person as the Committee requires, the Committee determines is likely to be permanent.

### *Forfeiture*

## **50 Forfeiture of Scheme benefits**

Schedule 2 makes provision as to the forfeiture of accrued retirement benefits and benefits in payment in respect of persons entitled to retirement benefits or other benefits under the Scheme.

### *Closing*

## **51 Citation**

These Regulations may be cited as the Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015.

## SCHEDULE 1

(Regulation 7)

### EXTENSION OF SCHEME – ADMITTED EMPLOYERS

#### 1 Interpretation

In this Schedule –

“admission agreement” means an agreement between the Minister and an employer described in paragraph 2(1) and (4)(b), which sets out the terms upon which the employer is admitted to the Scheme;

“public utility undertaking” means any legal person authorized by or under any enactment to carry on an electricity, or a gas, postal services, telecommunications or water undertaking;

“statutory undertaking” means an undertaking established under an enactment;

“valuation” has the meaning given in Regulation 3(1) of the Funding and Valuation Regulations.

#### 2 Participation of certain employers and employees

(1) Subject to paragraph 3, the Minister on the application of an employer who –

- (a) is a parish;
- (b) is a public utility undertaking;
- (c) is a statutory undertaking;
- (d) has replaced an administration of the States (within the meaning of Article 1 of the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#));
- (e) has otherwise taken over the employment of any employees who are members of the Scheme or the 1967 Scheme; or
- (f) not being one of the foregoing, satisfies the Minister that persons employed by the employer are employed in work of a nature which might properly be undertaken by a member,

may, after consulting the Committee and the Actuary, admit the employer to the Scheme.

(2) If, following consultation under sub-paragraph (1), an employer is accepted for admission to the Scheme, the employer shall enter into an admission agreement with the Minister, in accordance with paragraph 4.

(3) If –

- (a) an employer described in sub-paragraph (1)(d) is accepted for admission to the Scheme under sub-paragraph (2), and on the date of admission employs any person who immediately before the date of replacement of an administration of the States by that employer was an employee of that administration, that employee shall continue to be a member of the Scheme, or the 1967 Scheme (as the case may be) notwithstanding the replacement of that administration; or



- (b) an employer described in sub-paragraph (1)(e) is accepted for admission to the Scheme under sub-paragraph (2) and on the date of admission employs any person who immediately before the date of the taking over of his or her employment is a member of the Scheme or the 1967 Scheme (as the case may be), that person shall continue to be a member of the Scheme, or the 1967 Scheme (as the case may be) notwithstanding the taking over of his or her employment.
- (4) This sub-paragraph applies to –
  - (a) an employer described in sub-paragraph (3); or
  - (b) an employer treated as if admitted to the Scheme under any enactment which provides for that employer to become an employer for the purposes of the Scheme in respect of members of the Scheme whose employment with the States Employment Board is transferred to that employer,  
and who employs any person who is a member of the 1967 Scheme.
- (5) An employer to whom sub-paragraph (4) applies, shall be taken to be an employer admitted in respect of the 1967 Scheme, and the 1967 Scheme Regulations shall apply to the extent that the employer exercises any functions under those Regulations in respect of any employees who are members of that scheme.
- (6) An employer referred to in sub-paragraph (4)(b) shall, for the purposes of the Scheme, enter into an admission agreement with the Minister, in accordance with paragraph 4.

### **3 Pre-admission requirements**

- (1) Before the Minister admits an employer under paragraph 2(1) –
  - (a) the Minister shall carry out an assessment taking account of actuarial advice, of the level of risk arising on the premature ending of participation by reason of insolvency, winding up or liquidation of the employer;
  - (b) the Committee shall cause to be obtained –
    - (i) from the Actuary, notwithstanding Regulation 3 of the Funding and Valuation Regulations, a certificate as to the amounts to be contributed to the fund by the employer, and
    - (ii) from the employer –
      - (A) such evidence as the Committee requires of the employer's actual and long-term ability to pay the contributions certified by the Actuary, and
      - (B) such information as the Committee requires relating to the employer and the employees that are to be admitted.
- (2) the Actuary shall review any certificate obtained under sub-paragraph (1)(b)(i) before the expiry of 3 months after the date at which the valuation is presented under Regulation 3(3) of the Funding and Valuation Regulations, and following each review shall issue a new certificate as to the amounts to be contributed.

### **4 Admission agreement requirements**

- (1) Where an employer is admitted to the Scheme, the employer shall, on entering into an admission agreement comply with –

- (a) the terms and conditions specified in sub-paragraph (2); and
  - (b) such other terms and conditions as the Minister may determine, which shall be also be set out in that admission agreement.
- (2) An admission agreement must include –
- (a) where the employer is not one in respect of whom paragraph 2(3) or (4)(b) applies, provision as to whether any named individual, class or category or description of employee is, or is not eligible to become an active member of the Scheme on the day his or her employment with an admitted employer begins;
  - (b) a requirement that the employer will make good any shortfall in contributions that arises from the employer's error in respect of a change in the salaries of the employees or from any other cause;
  - (c) a requirement that the employer will not do anything to prejudice the status of the Scheme as a recognized overseas pension scheme within the meaning of section 150(8) of the UK Finance Act;
  - (d) a requirement that where the employer is to make a decision under Regulation 37 as to an active member's eligibility for, and level of ill-health pension, that the employer must obtain a certificate from no person other than the Independent Occupational Health Adviser, and that the employer shall pay the costs of obtaining that certificate;
  - (e) a requirement that the employer provide from time to time, on demand by the Committee, such evidence as the Committee requires of the employer's actual and long-term ability to pay the contributions certified by the Actuary;
  - (f) a requirement that the employer provide from time to time on demand by the Committee, a certificate from the employer's auditor certifying that the employer has paid all contributions due to the fund and any other amounts required to be paid by the employer under Scheme Regulations or the 1967 Scheme Regulations;
  - (g) a requirement that the employer provide all information that may reasonably be required by the Actuary, Administrator, Committee or Minister in the exercise of their functions under Scheme Regulations or the 1967 Scheme Regulations;
  - (h) a requirement that the employer notify the Minister of any matter which may affect the employer's participation in the Scheme;
  - (i) a requirement that the employer notify the Minister of any actual or proposed change in its status, including an amalgamation, reconstruction or take-over, bankruptcy, insolvency, liquidation, receivership or winding up, or a material change to the employer's business or constitution;
  - (j) provision for it to terminate in the event that an employer ceases to be an employer of a description set out in paragraph 2(1);
  - (k) provision as to the payment of a termination contribution in the event of an employer being unable to give notice of termination in accordance with paragraph 8;
  - (l) a right for the Minister to carry out from time to time a review risk assessment, being an assessment described in paragraph 3(1)(a);
  - (m) a right for the Minister to terminate the agreement in the event of –
    - (i) any of the circumstances set out in clause (i),

- (ii) a material breach by the employer of any of the employer's obligations under the admission agreement or these Regulations which has not been remedied within a reasonable time,
- (iii) a failure by the employer to pay any sums due to the fund within a reasonable period after receipt of a notice from the Minister requiring the employer to do so.

## 5 Indemnities and bonds etc.

- (1) Where the level of risk identified by the assessment carried out under paragraph 3(1)(a) is such as to require it, the Minister in consultation with the Committee and on taking actuarial advice, may determine that the admission agreement include one of the following requirements –
- (a) that the employer enter into an indemnity or bond in a form approved by the Minister, with a person who is registered under Article 9 of the [Financial Services \(Jersey\) Law 1998](#) to carry on financial service business within the meaning of Article 2 of that Law;
  - (b) that the employer shall pay into a separate admission agreement fund, contributions of such an amount as certified by the Actuary which are in addition to those certified payable to the fund under paragraph 3(1)(b)(i); or
  - (c) that the employer secures a guarantee in a form satisfactory to the Committee, from –
    - (i) a person who funds the employer, in whole or in part,
    - (ii) a person who owns or controls the exercise of the functions of the employer, or
    - (iii) the States of Jersey, where the employer is –
      - (A) an employer falling under paragraph 2(1)(d), and
      - (B) established by or under any enactment which makes provision for that employer to be funded in whole or in part, by the States of Jersey.
- (2) Where at any time after an employer has entered into an admission agreement, a level of risk identified by a review risk assessment described under paragraph 4(2)(l) is such as to require it, the Minister on taking actuarial advice, may determine that the employer enter into a supplementary agreement with the Minister which shall include one or more of the requirements set out under sub-paragraph (1)(a) to (c).<sup>8</sup>
- (3) Failure by an employer to enter into a supplementary agreement may be taken to amount to a material breach of the employer's obligations such as to result in the termination of the admission agreement, as described in paragraph 4(2)(m)(ii).

## 6 Contributions and other payments

- (1) The contributions certified by the Actuary as payable by an admitted employer to the fund, the admission agreement fund, and any other amounts required to be paid by the employer under –
- (a) Regulation 11(7) and (8) of the Funding and Valuation Regulations;
  - (b) Regulation 14(3)(a); or

- (c) a notice given by the Committee under paragraph 7(2)(b), shall be paid by that employer on or before the expiry of one month following the end of the month in which those contributions or other amounts fall due, and any outstanding amounts due from that employer shall be recoverable as a civil debt to the Committee.
- (2) Every payment referred to in sub-paragraph (1)(a) and (b) must be accompanied by a statement showing –
- (a) the total pensionable earnings paid to active members during the period covered by the statement (including any notional pensionable earnings members were treated as being paid during that period);
  - (b) the total member contributions deducted from the pensionable earnings referred to in clause (a);
  - (c) the total employer contributions in respect of the pensionable earnings referred to in clause (a);
  - (d) the total additional voluntary contributions paid by active members under Regulation 15, during the period covered by the statement; and
  - (e) any changes to an active member's employment status.
- (3) The Administrator may direct that the information required under sub-paragraph (2) shall be given in such form, and at such intervals (not exceeding 12 months) as the Administrator specifies in the direction.
- (4) The Actuary shall also certify such other amount of contributions as the Actuary may determine –
- (a) as being reasonably attributable to the employer in respect of the capitalized value, from time to time, of the debt transferred to the fund in respect of the 1967 Scheme when that scheme was amended with effect from 1st January 1988; or
  - (b) are required from the employer so as to address any shortfall in assets attributable to that employer, arising from any cause.
- (5) Sub-paragraph (4)(a) applies regardless of whether or not an employer employs a continuing member of the 1967 Scheme.

## **7 Additional costs arising from admitted employer's level of performance**

- (1) This paragraph applies where, in the opinion of the Committee, the fund has incurred additional costs which should be recovered from an admitted employer because of that employer's level of performance in carrying out its functions under Scheme Regulations or the 1967 Scheme Regulations.
- (2) The Committee may give written notice to the admitted employer –
- (a) stating the Committee's reasons for forming the opinion mentioned in sub-paragraph (1);
  - (b) stating the amount the Committee has determined the admitted employer should pay in respect of those costs and the basis on which the specified amount is calculated;
  - (c) stating, where the Committee has prepared a pension administration strategy under Regulation 20 of the Administration Regulations, the provisions of the strategy which are relevant to the decision to give the notice and to the matters in clauses (a) and (b); and

- (d) requiring payment of the additional costs.

## 8 Ending of participation

- (1) An admitted employer shall give 6 months' notice to the Committee and the Minister that –
- (a) some of the employer's employees; or
  - (b) all of the employer's employees and the employer,
- participating in the respective schemes, intend to cease participating in either one of or both of those schemes on the date the notice expires.
- (2) The Minister may, provided the Committee so agrees having obtained the advice of the Actuary, give an employer 6 months' notice to cease participating in either one of or both of the respective schemes.
- (3) Upon expiry of the notice given under sub-paragraph (1) or (2), the Committee shall arrange for such part of the assets of the fund as are certified by the Actuary to be appropriate to be set aside, to be applied or disposed of in accordance with paragraph 9, for the benefit of such of those employees who cease to participate in the respective schemes.
- (4) Before the Actuary certifies the assets to be set aside under sub-paragraph (3), the Actuary shall issue a termination contribution as described in sub-paragraph (5) –
- (a) in respect of whichever of the schemes the notice under sub-paragraph (1) or (2) applies; or
  - (b) for each of the respective schemes if the notice under sub-paragraph (1) or (2) applies to both schemes.
- (5) Subject to sub-paragraph (6), the termination contribution shall be –
- (a) the past service liabilities of the respective schemes attributable to the employees who are to cease their participation in the Scheme, or the 1967 Scheme, as the case may be; minus
  - (b) the part of the assets that would be appropriate to be set aside and applied in accordance with sub-paragraph (3), if no amount were paid in respect of those assets under sub-paragraph (8).
- (6) The termination contribution in sub-paragraph (5) shall be zero if that part of the assets mentioned in sub-paragraph (5)(b) exceeds the past service liabilities mentioned in sub-paragraph (5)(a).
- (7) The past service liabilities shall be calculated on the actuarial assumptions used in respect of the most recent valuation of the fund undertaken in accordance with Regulation 3 of the Funding and Valuation Regulations, and shall include allowances for projected salary and pension increases applied in accordance with those assumptions.
- (8) The employer shall, before the expiry of the 6 months' notice period, pay into the fund the amount of the termination contribution and that amount shall be included in the part of the assets to be set aside as certified by the Actuary under sub-paragraph (3).
- (9) If any part of a termination contribution is left unpaid, the Committee is not required under sub-paragraph (3) to apply or otherwise dispose of such of those assets which correspond to the part of the contribution left unpaid.

## 9 Application or disposal of assets for benefit of employees

- (1) The assets set aside under paragraph 8(3) may be applied or disposed of in any of the ways described in this paragraph.
- (2) Subject to sub-paragraph (3), where an employer to whom paragraph 8 applies, has established a pension scheme, such part of the assets of the fund as in the opinion of the Actuary relate to any of those employees who becomes a member of such a pension scheme, may be transferred to that scheme.
- (3) A transfer under sub-paragraph (2) shall occur provided that –
  - (a) by a date specified by the Committee, the employer and employee both request such a transfer of assets; and
  - (b) the Committee is satisfied that the terms of the transfer are fair in all the circumstances.
- (4) Where –
  - (a) sub-paragraph (2) does not apply; or
  - (b) an employee becomes a member of his or her employer's pension scheme referred to in sub-paragraph (2), but no transfer of assets occurs in respect of that employee,the Committee shall apply or dispose of the assets set aside, in accordance with sub-paragraphs (5) or (8).
- (5) An employee may, by a date specified by the Committee, request that the Committee –
  - (a) purchase annuities in accordance with sub-paragraph (6) from an insurance company or office of good repute, for the purpose of satisfying any pension or other benefits which may in future become payable under the respective schemes by virtue of the employee's membership; or
  - (b) pay a transfer value to the trustees or managers of –
    - (i) any other pension scheme of which the employee becomes a member, or
    - (ii) the employee's personal pension scheme.
- (6) Where annuities are to be purchased under sub-paragraph (5)(a) –
  - (a) any increase on pensions in payment and on deferred pensions shall (instead of being as provided by Regulations 8 or 12 of the Funding and Valuation Regulations) be as determined by the Committee on the advice of the Actuary, having regard to the proportion of the assets of the fund which are to be set aside; and
  - (b) any annuity so purchased shall be purchased in the name of the employee or in the name of a trustee or trustees for the employee's benefit.
- (7) The purchase of an annuity in respect of an employee, or the payment of a transfer value under this paragraph shall extinguish the employee's rights to any pension or other benefits under the Scheme, or the 1967 Scheme (as the case may be), as well as the rights of any person contingently entitled to any benefit upon the employee's death.
- (8) Where the Committee receives no request under sub-paragraph (5), the employee shall be entitled to a deferred pension under Regulation 29 or, where applicable, under equivalent provisions of the 1967 Scheme Regulations, subject to such

adjustment (if any) as the Actuary thinks fit on taking into account the value of the part of the assets certified under paragraph 8(3).

## SCHEDULE 2

(Regulation 50)

### FORFEITURE OF SCHEME BENEFITS

#### 1 Interpretation

In this Schedule –

- (a) “competent court” means the Royal Court, Petty Debts Court, or Magistrate’s Court;
- (b) “judgment of the court” includes a judgment of a superior court of any country outside Jersey in respect of which an Act under Article 3 of the [Judgments \(Reciprocal Enforcement\) \(Jersey\) Law 1960](#) applies, provided such judgment has been registered in accordance with Article 4 of that Law.

#### 2 Circumstances leading to forfeiture of benefits

- (1) This Schedule applies to –
  - (a) an active member who is in Scheme employment at the time –
    - (i) an offence described in sub-paragraph (4)(a) to (c) is committed (of which the member is later convicted), or
    - (ii) monetary loss occurs to an employer or the fund under sub-paragraph (4)(d);
  - (b) a person described in sub-paragraph (4)(e) or (f).
- (2) Subject to sub-paragraph (3), a person to whom this Schedule applies may have his or her accrued retirement benefits or benefits in payment forfeited in any of the circumstances set out in sub-paragraph (4).
- (3) The reference to “accrued retirement benefits” in sub-paragraph (2), shall not include any retirement benefits transferred into the fund under Regulation 23 of the Administration Regulations in relation to forfeiture of accrued benefits in the circumstances set out in sub-paragraph (4)(a) to (c).
- (4) The circumstances referred to in sub-paragraph (2) are –
  - (a) where the member is convicted of an offence committed in connection with his or her employment or office for which –
    - (i) in the case of one offence, the member is sentenced to a term of imprisonment of at least 5 years, or
    - (ii) in the case of more than one offence, the member is sentenced on the same occasion to 2 or more consecutive terms of imprisonment amounting in aggregate to at least 5 years;
  - (b) where the member is convicted of treason;
  - (c) where the member is convicted of an offence under the [Official Secrets \(Jersey\) Law 1952](#) for which –
    - (i) in the case of one offence, the member is sentenced to a term of imprisonment of at least 10 years, or



- (ii) in the case of more than one offence, the member is sentenced on the same occasion to 2 or more consecutive terms of imprisonment amounting in aggregate to at least 10 years;
- (d) where the member has caused a monetary loss to an employer or the fund as a result of a criminal act by him or her;
- (e) where a person entitled to receive retirement benefits or other benefits under the Scheme fails to make a claim before the expiry of 7 years from the date upon which the retirement benefits or other benefits become payable;
- (f) where the member's surviving partner, dependant or eligible child is convicted of the offence of murder or manslaughter of that member.

### **3 Application for forfeiture certificate**

- (1) An employer may, in the circumstances described in paragraph 2(4), apply to the Minister for forfeiture of a person's accrued retirement benefits or benefits in payment, and a copy of the application must be provided to the person concerned.
- (2) An application for forfeiture must be made before the expiry of 6 months beginning with –
  - (a) the date of the person's conviction, or if later, the date at which any right of appeal in relation to the conviction is finally determined; or
  - (b) the date of any order or judgment of a competent court against, or in respect of the person concerned, that requires a person to make good any monetary loss to the employer or the fund or, if later, the date at which any right of appeal against the order or judgment is finally determined.
- (3) An application for a forfeiture certificate in the circumstances described in paragraph 2(4)(e) may be made at any time after the expiry the 7 year period referred to in that paragraph.

### **4 Certificate and extent of forfeiture**

- (1) Subject to the provisions of this paragraph, the Minister may, in respect of an application under paragraph 3, determine to issue a forfeiture certificate in respect of a specified amount or percentage of benefits.
- (2) In respect of an application for forfeiture concerning conviction for an offence falling under paragraph 2(4)(a), the Minister must certify that the commission of that offence has been gravely injurious to the States of Jersey or is liable to lead to a serious loss of confidence in the public service.
- (3) In respect of an application for forfeiture concerning conviction for an offence falling under paragraph 2(4)(a) or (c), where the commission of the offence in question is not discovered until after the member has left Scheme employment, the Minister may in determining whether to issue a certificate and its amount, take into account the period which has elapsed between the date of the commission of the offence and the date of conviction.
- (4) The member's accrued retirement benefits or benefits in payment under the Scheme may be forfeited under paragraph 2(4)(d) only to the extent that those benefits do not exceed the amount of the monetary loss in question, or (if less), the value of the member's accrued retirement benefits or benefits in payment as determined by the Administrator upon the advice of the Actuary.

- (5) Except in a case falling under paragraph 2(4)(d), (e) or (f), the amount forfeited must not include any amount representing the member's own contributions.

## **5 Effect of forfeiture**

- (1) Where a person to whom this Schedule applies has had his or her retirement benefits or benefits in payment forfeited in whole, or in part, a copy of the forfeiture certificate issued under paragraph 4 must be provided to the person concerned, and contain a statement showing the amount forfeited and the effect of the forfeiture on the person's future benefits under the Scheme.
- (2) Where a forfeiture certificate is issued under paragraph 4, the Administrator must, subject to any appeal against the Minister's determination under that paragraph, transfer out of the person's pension record, an amount representing the value of the benefits to be forfeited and pay that amount to the person's employer, or the fund in a case falling under paragraph 2(4)(d).
- (3) If the effect of forfeiture is to extinguish the person's entitlement to any rights or benefits under the Scheme, the Administrator must close the person's pension record.
- (4) Where a person's accrued retirement benefits or benefits in payment are forfeited in whole, or in part, the fund shall be discharged of any actual or contingent liability in respect of those forfeited rights or benefits.

## **6 Appeals**

- (1) This paragraph applies where a person is aggrieved by the Minister's determination under paragraph 4.
- (2) A person may give notice of appeal to the Royal Court before the expiry of 28 days beginning with the day of receipt of the forfeiture certificate provided under paragraph 5 and the Court may, after considering the case, make such order as appears to it to be just.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Public Employees (Pension Scheme) (Membership and Benefits) (Jersey) Regulations 2015	<a href="#">R&amp;O.141/2015</a>	1 January 2016	<a href="#">P.98/2015</a>
Public Employees (Pensions) (Deferred Pensions, Transfer Payments and Refund of Contributions) (Miscellaneous Amendments) (Jersey) Regulations 2017	<a href="#">R&amp;O.126/2017</a>	7 December 2017	<a href="#">P.93/2017</a>
Marriage and Civil Status (Amendment No. 4) (Jersey) Law 2018	<a href="#">L.19/2018</a>	1 July 2018 ( <a href="#">R&amp;O.68/2018</a> )	<a href="#">P.91/2017</a>
Public Employees (Pension Scheme) (Miscellaneous Amendments) (Jersey) Regulations 2019	<a href="#">R&amp;O.5/2019</a>	15 January 2019	<a href="#">P.37/2019</a>

◦Projets available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

### Table of Endnote References

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- <sup>1</sup> Regulation 3(3) amended by L.19/2018  
<sup>2</sup> Regulation 3(5) amended by L.19/2018  
<sup>3</sup> Regulation 3(7) deleted by L.19/2018  
<sup>4</sup> Regulation 4(2) amended by R&O.5/2019  
<sup>5</sup> Regulation 19(1) substituted by R&O.126/2017  
<sup>6</sup> Regulation 19(2) amended by R&O.126/2017  
<sup>7</sup> Regulation 19(4) substituted by R&O.126/2017  
<sup>8</sup> Schedule 1 paragraph 5(2), editorial change, “on on” deleted, “on” inserted instead