



Jersey

**PUBLIC EMPLOYEES
(CONTRIBUTORY RETIREMENT
SCHEME) (GENERAL) (JERSEY)
REGULATIONS 1989**

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PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (GENERAL) (JERSEY) REGULATIONS 1989

Arrangement

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PUBLIC EMPLOYEES (CONTRIBUTORY RETIREMENT SCHEME) (GENERAL) (JERSEY) REGULATIONS 1989¹

THE STATES, in pursuance of Articles 2, 3 and 4 of the Public Employees (Retirement) (Jersey) Law 1967², have made the following Regulations –

Commencement [[see endnotes](#)]

1 Interpretation

In these Regulations, unless the context otherwise requires –

“Actuary” means the Actuary to the scheme appointed under Regulation 5;

“appointed day” means 1st January 1988;

“1990 appointed day” means 1st January 1990;³

“assets of the scheme” means the moneys and other assets for the time being held by the Treasurer for the purposes of the scheme;

“Chairman” means the chairman of the Committee appointed in accordance with Regulation 3;

“Committee” means the Committee of Management established in accordance with Regulation 3;

“deferred pensioner” means a former member entitled to a deferred pension under the scheme which has not yet become payable;

“employee” means –

- (a) an employee as defined in Regulation 1 of the 1989 Existing Members Regulations;
- (b) an employee as defined in Regulation 1 of the 1989 New Members Regulations;

-
- (c) a contributory member as defined in Regulation 3 of the 1967 Regulations while the member remains an employee to whom the 1967 Regulations apply; or
- (d) an employee as defined in Regulation 1 of the Former Hospital Scheme Regulations;⁴

“employer” means –

- (a) the States Employment Board within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005⁵, in respect of the States or any administration of the States;
- (b) any other employer whose employees have become members pursuant to Article 4 of the Law or these Regulations;

“employer representative” means a member of the Committee who has been appointed as an employer representative in accordance with Regulation 3;

“1989 Existing Members Regulations” means the Public Employees (Contributory Retirement Scheme) (Existing Members) (Jersey) Regulations 1989⁶;

“Former Hospital Scheme” means the Federated Pension Scheme for Medical, Nursing and Auxiliary Staff in Jersey governed by the Deed Definitive approved by the States on the 10th day of May 1972;⁷

“Former Hospital Scheme Regulations” means the Public Employees (Contributory Retirement Scheme) (Former Hospital Scheme) (Jersey) Regulations 1992⁸;

“Law” means the Public Employees (Retirement) (Jersey) Law 1967⁹;

“member” means an employee who joins the scheme pursuant to the 1989 Existing Members Regulations or the 1989 New Members Regulations or the 1967 Regulations or the Former Hospital Scheme Regulations (for so long as the member remains an employee) and “membership” shall be construed accordingly;¹⁰

“member representative” means a member of the Committee who has been appointed as a member representative in accordance with Regulation 3;

“1989 New Members Regulations” means the Public Employees (Contributory Retirement Scheme) (New Members) (Jersey) Regulations 1989¹¹;

“1967 Regulations” means the Public Employees (Contributory Retirement Scheme) (Jersey) Regulations 1967¹²;

“scheme” means the pension scheme established by the 1967 Regulations;

“Treasurer” means the Treasurer of the States.¹³

2 Regulations governing the scheme

The scheme shall, from the appointed day, be governed by these Regulations, the 1989 Existing Members Regulations, the 1989 New Members Regulations and the 1967 Regulations and from the 1990 appointed day, the Former Hospital Scheme Regulations and the position in respect of contributions, benefits and all other matters shall in respect of each member's period of membership of the scheme be determined by reference to these Regulations and to whichever of the other Regulations applies to the member.¹⁴

3 Committee of management

- (1) There shall be established a Committee of Management which shall have and exercise all such powers, authorities and discretion as are vested in it by the Regulations governing the scheme.
- (2) Subject to the provisions of this Regulation, the Committee shall be appointed by the States on the recommendation of the Chief Minister and shall comprise –
 - (a) a Chairman who shall be appointed in accordance with paragraph (6);
 - (b) 6 employer representatives and 6 member representatives (or such greater equal number of employer representatives and member representatives as may be determined from time to time by agreement between the Chief Minister and the representative associations) appointed as follows –
 - (i) one-half of the employer representatives shall be chosen by the Minister for Treasury and Resources,
 - (ii) nominations for member representatives shall be determined in such manner as the Chief Minister shall agree with the representative associations.¹⁵
- (3) The employer and member representatives first appointed to the Committee shall serve for a term ending on 31st December 1991 and thereafter such representatives shall serve for a period of 3 years, and shall in either case be eligible for re-appointment.
- (4) A member of the Committee may resign by notice in writing to the Chairman and the States may at any time remove from office any member of the Committee (excluding the Chairman) appointed by it under this paragraph.
- (5) The States may appoint a new member, in the manner specified in this Regulation, for the remainder of the term of any member who shall resign or be removed or die.¹⁶
- (6) The chairman of the Committee shall be appointed by the States on the recommendation of the Minister for Treasury and Resources. Any such recommendation shall be supported by a majority of the member representatives and a majority of the employer representatives appointed under paragraph (2) who shall, in like manner, determine the Chairman's tenure of office and the method of the Chairman's removal. The fee (if

any) to be paid to the Chairman from the assets of the scheme shall be decided by a simple majority of the member and employer representatives.

- (7) The Committee may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit, but subject to the following provisions –
- (a) if the Chairman is not present at any meeting, those present shall elect a chairman from their number for that meeting;
 - (b) a quorum shall be formed by not less than 4 employer representatives and 4 member representatives;
 - (c) save as provided in paragraph (6) and in Regulations 5, 6 and 10 all business brought before a meeting shall be decided by a majority of the members present;
 - (d) the Chairman shall have a casting vote but not an original vote. A chairman elected under sub-paragraph (a), if the Chairman exercises the Chairman's original vote, shall not have a casting vote.
- (8) Each member of the Committee shall be indemnified by the States against all personal liabilities incurred by the member in the management and administration of the scheme (other than those incurred by the member's own wilful default).

4 Assets of the scheme and investments

- (1) The following shall be paid into the scheme –
- (a) contributions paid to the scheme by members and employers;
 - (b) any dividends or interest or other returns arising out of the investment of the assets of the scheme or any part thereof, and any capital sums resulting from the realisation of any such investments;
 - (c) any amounts received pursuant to Regulation 7(1);
 - (d) any other sums which may be paid into the scheme.¹⁷
- (2) Except as provided in Regulation 5(4), the assets of the scheme shall be held by the Treasurer on behalf of the Committee, in accordance with the provisions of these Regulations. The Treasurer shall receive amounts paid into the scheme under paragraph (1) and from the assets of the scheme shall pay pensions and other benefits under the scheme, pay refunds, meet any reasonable expenses of administering the scheme (including those of the Treasurer) and pay any remuneration which becomes due under these Regulations.
- The Treasurer shall also pay from the assets of the scheme all costs incurred by the Chief Minister in determining and implementing transfers into the scheme from the Former Hospital Scheme.¹⁸
- (3) Any assets which are not for the time being required for the purpose of paragraph (2) shall be invested by the Treasurer on the directions of the Committee in accordance with paragraph (4):

Provided that the Minister for Treasury and Resources may at any time determine that any particular investment shall not be made.

- (4) Subject to paragraph (5), the assets of the scheme may be invested or applied in whole or in part –
- (a) in the purchase of or at interest upon the security of such funds, securities, bonds, debentures, stocks, shares or property (including any interest in land) or other investments of whatsoever nature and wheresoever situate and whether involving liability or not and whether or not income producing and whether in possession or reversion as the Committee thinks fit including power to underwrite, sub-underwrite or guarantee the subscription of any such funds, securities, bonds, debentures, stocks, shares and other investments as aforesaid;
 - (b) in or towards effecting and maintaining with any insurance company or insurance office of good repute any annuity contracts or annuity policies or life assurance policies;
 - (c) by placing the same on deposit at interest with any company or mutual or other society or body of good repute and standing incorporated or carrying on business within the United Kingdom or the Channel Islands which carries on the business of banking or insurance or bill discounting;
 - (d) by entering into any contract for the purpose of stock lending or dealing in financial futures and traded options;
 - (e) without prejudice to the generality of the foregoing, in or towards subscribing for units in a unit trust, mutual fund or policy linked unit trust scheme and for units or other interest offered by an insurance company of good repute in a managed fund, and the Committee is expressly authorized to commingle the assets of the scheme or any part thereof with other funds upon such terms as to sharing, division, valuation, apportionment and administration and otherwise as may be contained from time to time in the trust deed, declaration of trust policy or contract governing investment in such commingled assets,

to the intent that the Committee shall have the same full and unrestricted powers of investing and transposing and varying investments, contracts, policies or deposits in all respects as if they were absolutely and beneficially entitled thereto.¹⁹

- (5) The Committee in the exercise of its functions in relation to the investment of the assets of the scheme under paragraph (4) shall have regard to –
- (a) the need for diversification of investments of the assets of the scheme;
 - (b) the suitability of any description of investment it proposes to make;
 - (c) proper advice obtained at reasonable intervals.²⁰
- (6) In this Regulation, the expression “proper advice” means the advice of a person or persons reasonably believed by the Committee to be qualified

by the person's ability in and practical experience of financial matters to give such advice.²¹

- (7) If an employer delays paying into the scheme all or any part of a contribution mentioned in paragraph (1)(a) the employer shall pay interest on the amount of the delayed payment at such rate as the Committee determines on the advice of the Actuary.²²

4A Debt payment contributions²³

- (1) In this Regulation –
- “1988 liability”, in respect of the States Employment Board, means so much of the capitalised value from time to time of the debt transferred to the scheme when the scheme was amended with effect from 1st January 1988 that is attributable to the States Employment Board, being an amount calculated by the Actuary to be £177,500,000 as at 31st December 2001 (£14,300,000 of which was repaid in August 2003);
- “debt payment period” means the period that starts on 1st January 2002 and ends on 31st December 2083 (both dates being part of the period);
- “member” includes a former member, and the widow or widower, child or dependant of a member.
- (2) The States Employment Board shall pay off its 1988 liability during the debt payment period.
- (3) The States Employment Board shall do so without –
- the imposition of an obligation on members;
 - an adverse effect on the benefits received or to be received by members; or
 - an increase in the contributions paid or to be paid by members.
- (4) To pay off its 1988 liability the States Employment Board shall during the debt payment period pay to the scheme by equal monthly contributions payable before the end of each month –
- for the year starting 1st January 2002, £2,735,200; and
 - for each subsequent year, the amount payable during the previous year increased by the same percentage increase as the average percentage increase during that previous year in the salaries of those members who were employed with the States during the whole of that year.
- (5) The States Employment Board may at any time –
- extinguish its liability to make contributions in accordance with paragraph (4) by paying to the scheme a contribution equal to the amount of its 1988 liability at that time, as determined by the Actuary; or
 - pay any amount to the scheme, either as a lump sum contribution or by way of increased contributions, to reduce its 1988 liability.
- (6) Where –

- (a) a report under Regulation 6(1) discloses a surplus;
 - (b) a surplus continues to exist after the operation of Regulation 6(3)(a); and
 - (c) the States Employment Board and the Committee agree,
- all or any part of that surplus may be used to extinguish or reduce the 1988 liability of the States Employment Board.

(7) Where –

- (a) the States Employment Board makes a contribution to the scheme in accordance with paragraph (5)(b);
- (b) the 1988 liability of the States Employment Board is reduced in accordance with paragraph (6);
- (c) the scheme is amended to end or adjust any future benefit accrual for any members;
- (d) the actuary determines that there has been a change of circumstances of the scheme or an event, which need not be connected with the scheme, that has made compliance by the States Employment Board with paragraph (4) inadequate to ensure that both paragraphs (2) and (3) are complied with; or
- (e) the actuary determines that there has been a change that makes the provisions of this Regulation unacceptable as an asset of the scheme for the purposes of a review of the scheme in accordance with Regulation 6,

the States Employment Board shall, after receiving the comments of the Committee acting on the advice of the Actuary, recommend to the States amendments to this Regulation that are adequate to ensure that both paragraphs (2) and (3) are complied with.

(8) The recommendation –

- (a) may, amongst other things, recommend a variation in the length of the debt payment period or a variation in the amount of the contributions to be paid by the States Employment Board; but
- (b) shall not recommend an amendment of paragraph (3).

5 Appointment of Actuary, investment manager and other advisers, and professional advice

- (1) With the approval of the Chief Minister the Committee shall appoint and may remove an Actuary to the scheme who shall be a Fellow, or a firm all of whose partners are Fellows, of the Institute of Actuaries or of the Faculty of Actuaries in Scotland, on such terms as to remuneration or otherwise as the Committee shall agree.
- (2) Subject to the provisions of this Regulation, the Committee, with the consent of the Minister for Treasury and Resources –
 - (a) shall appoint an investment manager or investment managers to exercise all the Committee's powers of investment referred to in

Regulation 4(4), on such terms as to remuneration or otherwise as the Committee and the Minister for Treasury and Resources shall agree;

- (b) may revoke without notice any appointment made under this paragraph:

Provided that –

- (i) any such appointment or revocation by the Committee shall be supported by a majority of the employer representatives and a majority of the member representatives present;
 - (ii) the Minister for Treasury and Resources may, acting on its own, revoke any appointment made under this paragraph.²⁴
- (3) The Committee shall not make an appointment under paragraph (2) unless –
- (a) it has considered the value of the assets of the scheme to be managed by the investment manager, or as the case may be, by each of the investment managers to be appointed, and is satisfied that it will not be excessive, having regard to proper advice, to the desirability of securing diversification of the assets of the scheme and to the value of the assets of the scheme;
 - (b) the terms of the appointment require the investment manager, or as the case may be, each of the investment managers –
 - (i) to comply with such instructions as the Committee may give,
 - (ii) to have regard to the need for diversification of investment of the assets of the scheme, and to the suitability of investments of any description which the investment manager proposes to make and of any investment proposed as an investment of that description.²⁵
- (4) Notwithstanding Regulation 4(2), some or all of the assets of the scheme may be held on behalf of the Committee, to the extent that the Committee may from time to time decide –
- (a) by a custodian appointed by the Committee under paragraph (5); or
 - (b) by an investment manager appointed by the Committee under paragraph (2) while they are assets being managed by the investment manager.²⁶
- (5) The Committee, with the consent of the Minister for Treasury and Resources, may appoint a custodian on such terms as to remuneration or otherwise as the Committee and the Minister for Treasury and Resources agree.²⁷
- (6) Each investment manager shall produce regular reports on the assets under the investment manager's control and such reports shall be received by the Committee and be available for inspection by the Minister for Treasury and Resources:

Provided that –

-
- (i) the Minister for Treasury and Resources may send representatives to any meeting of the Committee which is to receive a report from any investment manager, and
 - (ii) the Committee shall agree with each investment manager an investment strategy which has been approved by the Minister for Treasury and Resources.
 - (7) Where the Committee has made an appointment under paragraph (2), it shall, at least once every 3 months, review the investments made by each investment manager and from time to time consider the desirability of continuing or revoking the appointment.²⁸
 - (8) In exercising its functions under paragraph (7), the Committee shall have regard to –
 - (a) the need for diversification of investments of the assets of the fund;
 - (b) the suitability of investments of any description of investment which the investment manager has made and of any investment made as an investment of that description; and
 - (c) proper advice.²⁹
 - (9) The Committee may appoint or remove advisers other than those referred to in paragraphs (1) and (2) for the proper management of the scheme, on such terms as to remuneration or otherwise as the Committee shall agree.
 - (10) The Committee may in relation to the scheme rely upon the advice or opinion of any lawyer, broker, accountant, actuary, medical practitioner, investment manager or other professional person and shall not be responsible for any loss occasioned thereby.
 - (11) In this Regulation –
 - “investment manager” means a person or persons reasonably believed by the Committee to be suitably qualified by ability in and practical experience of financial matters to make investment decisions on its behalf;
 - “proper advice” has the same meaning as in Regulation 4.³⁰

6 Actuarial investigations

- (1) Subject to paragraph (4), the Actuary shall review the operation of the scheme in accordance with the Law and the Committee may obtain an actuarial review and report when it thinks fit. After each such review, the Actuary shall make a report to the Committee (who shall pass a copy to the Chief Minister as soon as may be after it is made) within such period after the provision of all necessary data to the Actuary as the Committee and the Actuary shall agree.³¹
- (2) A copy of every report under paragraph (1) shall be laid before the States by the Chief Minister as soon as may be after it is made.
- (3) Where the report discloses any surplus or deficiency in the fund, the Chief Minister shall within 3 months of laying the report before the States

submit to the States proposals for disposing of the surplus, or as the case may be, for making good the deficiency in accordance with the following provisions –

- (a) where a surplus is disclosed the Committee shall restore in accordance with proviso (iii) to Regulation 11 and to the extent there specified any previous reduction or cancellation of increase in pension and deferred pension (other than those made good by the States out of revenues) without the need for proposals or amendment of the Regulations governing the scheme;
- (b) if a surplus continues to exist after the operation of subparagraph (a), such proposals may with the agreement of the Committee (but not to the exclusion of other proposals upon which the Chief Minister and the Committee have by then agreed or shall, within the period of 6 months immediately after the report is laid before the States, agree) consist of –
 - (i) if the surplus appears to be of a temporary nature, a recommendation that no action should be taken,
 - (ii) the retention of a surplus no larger than the Actuary advises is a prudent reserve, or
 - (iii) an increase of the benefits under the 1989 Existing Members Regulations and the 1989 New Members Regulations;
- (c) if a surplus continues to exist after the operation of subparagraph (a) and, within the 6 months immediately after the report is laid before the States, the Committee and the Chief Minister have not agreed on proposals, then after a further period of 3 months –
 - (i) one-third of the remaining surplus shall without the need for proposals or amendment of the Regulations governing the scheme be applied to a reduction in the rate of contributions payable by the members under the 1989 Existing Members Regulations and the 1989 New Members Regulations (unless the member representatives before the expiry of 9 months from the date the report was laid before the States request the Chief Minister to submit proposals to the States on their behalf to apply that money in whole or in part to an increase to the benefits under the 1989 Existing Members Regulations and the 1989 New Members Regulations), and
 - (ii) two-thirds of the remaining surplus shall be applied to a reduction in the rate of contributions payable by the employers under the scheme (otherwise than under Regulation 4A) without the need for proposals or amendment of the Regulations governing the scheme;
- (d) where a deficiency is disclosed such proposals may with the agreement of the Committee (but not to the exclusion of other proposals upon which the Chief Minister and the Committee have by then agreed or shall, within the period of 6 months immediately after the report is laid before the States, agree) consist of –

- (i) if the deficiency appears to be of a temporary nature, a recommendation that no action should be taken, or
 - (ii) an increase in the contributions payable by the members under the 1989 Existing Members Regulations and the 1989 New Members Regulations and/or in the contributions payable by the employers to the scheme;
- (e) if a deficiency is disclosed and, within the 6 months immediately after the report is laid before the States, the Committee and the Chief Minister have not agreed on proposals, then after a further period of 3 months –
 - (i) the Committee shall reduce or cancel any increase in pensions, deferred pensions and deferred lump sums (including pensions and lump sums determined at normal retiring age under Regulation 5 or 10(4) of the Former Hospital Scheme Regulations which have been deferred owing to the employee remaining in membership beyond normal retiring age) that might otherwise thereafter have been made pursuant to Regulation 11 in the manner recommended in the Actuary's report in order to eliminate the deficiency as far as possible, and
 - (ii) if the Actuary's report indicates that even after the operation of clause (i) a deficiency is likely to continue to exist, the Chief Minister shall submit proposals to the States for an increase in the contributions payable by the members under the 1989 Existing Members Regulations and the 1989 New Members Regulations and/or in the contributions payable by the employers to the scheme and/or a reduction of other benefits payable under the 1989 Existing Members Regulations and the 1989 New Members Regulations;
- (f) the agreement of the Committee to proposals under subparagraphs (b) and (d) shall be supported by a majority of the employer representatives and a majority of the member representatives present.³²
- (4) If a payment or allowance has been declared by the employer to be a pensionable allowance under Regulation 16 of the Former Hospital Scheme Regulations, Regulation 18 of the 1989 Existing Members Regulations or Regulation 18 of the 1989 New Members Regulations, any adjustment to the employers' contribution rate arising from the declaration and any additional contributions being paid as a result of the declaration shall be taken into account in the Actuary's review, whether or not the Regulations have been amended to specify the adjusted rate or additional contributions.³³

7 Transfers in and out

- (1) If the Treasurer receives in respect of a member any refund paid to the member (other than a refund from the scheme), or if any transfer value is received in respect of the member, under the terms of a policy of a like

nature to an annuity, a personal pension scheme or any pension scheme of which that person was previously a member (the “transferring arrangement”) –

- (a) the member shall be entitled to such added years (as defined in the 1989 Existing Members Regulations or the 1989 New Members Regulations) as the Treasurer, on the advice of the Actuary, shall decide;
- (b) in the case of a member to whom the 1967 Regulations apply, the Chief Minister may, on the advice of the Actuary, declare the member to have become a contributory member on such date as the Chief Minister shall decide; or
- (c) in the case of a member to whom the Former Hospital Scheme Regulations apply, the member shall be entitled to such notional period of pensionable service as the Treasurer, on the advice of the Actuary, shall determine,

having regard to the amount of money received by the Treasurer in respect of the person concerned:

Provided that –

- (i) the Chief Minister may, after consulting the Actuary, undertake to the trustees or manager of the transferring arrangement (or others concerned) that the benefits to be provided in respect of the transfer value shall not be less than those specified in relation to guaranteed minimum pensions, for the purposes of the Social Security Pensions Act 1975 of the United Kingdom (or in relation to any other minimum levels of benefits to which the Chief Minister shall have given his or her approval), by the transferring arrangement, and the benefits shall, if necessary to comply with the undertaking, be augmented by virtue of this paragraph;
- (ii) in the case of a United Kingdom transferring arrangement, the Chief Minister shall ascertain whether a refund of the member’s contributions was restricted under the transferring arrangement, and if so a similar restriction shall apply under the scheme to those transferred member’s contributions, and the Chief Minister shall also ensure that the trustees or managers of any arrangement to which those contributions may be subsequently paid under this Regulation undertake to maintain the restriction;
- (iii) the Chief Minister may give such undertakings to the relevant authorities (including taxation authorities) of the United Kingdom or other countries and territories as he or she considers appropriate in connection with refunds and transfer values received under this paragraph;
- (iv) the Chief Minister may make reciprocal arrangements with other pension schemes for transfers of members to and from the scheme, and the benefits to be provided in respect of a transfer value received and a transfer value to be paid shall,

if necessary to comply with such arrangements, be augmented by virtue of this paragraph;

- (v) in the case of any member whose service has been continuous from 1st January 1988 (having been previously subject to 1967 Regulations) or from 1st January 1990 (having been previously subject to the Former Hospital Scheme) and who applies to have added years credited under paragraph (1)(a) within such period as the Chief Minister shall determine such added years under paragraph (1)(a) shall be determined as equal to the additional period as a contributory member under paragraph (1)(b) as if the member was still subject to the 1967 Regulations (having been previously subject to those Regulations) or as equal to the notional period determined under paragraph (1)(c) as if the member was subject to the Former Hospital Scheme Regulations (having been previously subject to the provisions of the Former Hospital Scheme);
- (vi) if added years are determined in accordance with clause (v) and –
 - (A) on 1st January 1988 the transferring arrangement participated in a reciprocal arrangement with the Chief Minister under clause (iv), and
 - (B) such reciprocal arrangement was no longer in force when the transfer value was received from the transferring arrangement,

the Chief Minister may determine the added years as if such reciprocal arrangement had been in force when the transfer value was received, and the benefits provided in respect of the transfer value shall, if necessary, be augmented by virtue of this paragraph.³⁴

- (2) Subject to the provisions of these Regulations, if a member leaves service, the Treasurer may pay to the trustees or managers of a personal pension scheme or a pension scheme in respect of the member, a transfer value of such amount as the Treasurer, on the advice of the Actuary, shall decide.
- (3) If a transfer value is paid pursuant to paragraph (2) no other benefits shall be payable from the scheme in respect of that member.³⁵
- (4) Notwithstanding the provisions of paragraphs (1), (2) and (3), a person who by reason of a change of employment –
 - (a) transfers into the scheme from another pension scheme administered by the States, other than the Former Hospital Scheme shall be entitled to additional periods of pensionable service, each such case being determined on the basis that the person's pensionable service in respect of the person's previous employment remains unchanged, except that it shall be adjusted by the Actuary to take account of any change in the rate of accrual of benefit;

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- (b) transfers into the scheme from the Former Hospital Scheme shall be entitled to benefits, subject to the provisions of these Regulations based on pensionable service as defined, as the case may be, under the 1989 Existing Members Regulations, the 1989 New Members Regulations, or the Former Hospital Scheme Regulations;
 - (c) transfers out of the scheme into another pension scheme administered by the States shall be entitled to a transfer value of such amount that the person's total pensionable service remains unchanged, except that it shall be adjusted by the Actuary to take account of any change in the rate of accrual of benefit.³⁶
- (5) Notwithstanding the provisions of paragraphs (1) to (3), the benefits for and in respect of former members of the Former Hospital Scheme shall be as provided in the 1989 Existing Members Regulations, the 1989 New Members Regulations, the Former Hospital Scheme Regulations and these Regulations and the assets of the Former Hospital Scheme shall be transferred to the scheme in accordance with the provisions of that Scheme.³⁷

8 Voluntary early retirement³⁸

- (1) The Chief Minister, or an employer with the consent of the Chief Minister, may offer voluntary early retirement to any member of the scheme.
- (2) To be eligible for voluntary early retirement a member must –
 - (a) be at least 55 years of age (unless the Chief Minister in view of the special circumstances of a particular case agrees to the inclusion of a member who is under 55 years but at least 50 years of age);
 - (b) not be eligible to retire and receive an immediate payment of a pension under any Regulation of the scheme;
 - (c) have volunteered to retire –
 - (i) in consequence of the abolition of the member's office,
 - (ii) in order directly or indirectly to make possible the continued employment of another member of staff whose office is to be abolished, or
 - (iii) in the interests of efficiency, the Minister to whom is assigned responsibility for the administration of the States in which the member is employed or the employer having certified that the retirement is desirable for that purpose; and
 - (d) be eligible for a deferred pension under –
 - (i) Regulation 11 of the 1967 Regulations,
 - (ii) Regulation 8 of the Former Hospital Scheme Regulations,
 - (iii) Regulation 8 of the 1989 Existing Members Regulations, or
 - (iv) Regulation 8 of the 1989 New Members Regulations.³⁹

- (3) A member who takes voluntary early retirement under this Regulation shall be entitled to receive benefit in accordance with the provisions of this Regulation.
- (4) A member who takes voluntary early retirement under this Regulation shall, on leaving employment on the agreed date, to the date on which a deferred pension becomes payable, or the date of the member's death if earlier, receive from the fund a payment the annual rate of which shall be equal to the amount of the annual pension entitlement calculated under the provisions of Regulation 11 of the 1967 Regulations or Regulation 8 of the Former Hospital Scheme Regulations or Regulation 8 of the 1989 Existing Members Regulations or Regulation 8 of the 1989 New Members Regulations, as the case may be, the rate so determined being increased to take account of any additional credit for pensionable service granted by the employer when agreeing that the member shall take voluntary early retirement, and the payment being increased year by year in accordance with the provisions of Regulation 11 as if it were a pension in payment.⁴⁰
- (5) When a member to whom this Regulation applies reaches the age at which the deferred pension becomes payable, the provisions of Regulation 11 of the 1967 Regulations or Regulation 8 of the Former Hospital Scheme Regulations or Regulation 8, 13, 14 and 15 of the 1989 Existing Members Regulations or Regulations 8, 13, 14 and 15 of the 1989 New Members Regulations, as the case may be, shall apply, the annual pension entitlement and any lump sum entitlement under the Former Hospital Scheme Regulations being increased to take account of any additional credit for pensionable service granted by the employer and the increase year by year in accordance with Regulation 11, as mentioned in paragraph (4). If a deferred pensioner to whom this Regulation applies dies before the date on which the deferred pension becomes payable, the provisions of Regulation 8 of the 1967 Regulations or Regulation 12 of the Former Hospital Scheme Regulations or Regulation 12 of the 1989 Existing Members Regulations or Regulation 13 of the 1989 New Members Regulations, as the case may be, shall apply, the annual pension entitlement being increased to take account of any additional credit for pensionable service granted by the employer as mentioned in paragraph (4).⁴¹
- (6) The Actuary shall once a year certify to the Committee the additional cost to the scheme of the operation of this Regulation, calculating it as the difference between the value of the actual benefits granted in respect of each member to whom this Regulation applies and the value of the accrued liabilities in respect of that member, on the basis that the member, if the member survived, would have retired on pension at the age of 61.5 years or the member's normal retiring age (whichever is the lesser age), ignoring any additional credit for pensionable service granted by the employer as mentioned in paragraph (4) and taking into account *inter alia* projected increases in the member's salary up to the date of retirement (or earlier death) and pensionable service completed at the date of leaving service.⁴²

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- (7) The employer shall on notification thereof by the Committee pay into the fund the whole of the additional cost certified by the Actuary in accordance with paragraph (6).

9 Power to extend application of scheme

(1)

- (a) Subject to sub-paragraph (c), an employer who participated in the scheme or the Former Hospital Scheme on the day immediately preceding the appointed day shall thereafter participate in the scheme;
- (b) Subject to sub-paragraph (c) and to paragraph (2), the Chief Minister, on the application of an employer who –
- (i) is a parochial authority,
 - (ii) is a statutory undertaking,
 - (iii) is a public utility,
 - (iv) has replaced a department or part of a department administered by a Minister,
 - (v) has otherwise taken over the employment of any employees who are members of the scheme, or
 - (vi) not being one of the foregoing satisfies the Chief 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 such of the employees of that employer as the Chief Minister decides to participate in the scheme as members to whom the 1989 New Members Regulations apply, on execution by that employer of such document or documents as the Chief Minister shall determine;

- (c) Notwithstanding Regulation 6 or any other provisions of the scheme –
- (i) before the Chief Minister admits such persons the Committee shall cause to be obtained from the Actuary a certificate as to the amounts to be contributed to the scheme by the employer,
 - (ii) the Actuary shall review any such certificate or any certificate issued under Article 4 of the Law at intervals of not more than 5 years and following each review shall issue a new certificate as to the amounts to be contributed to the scheme,
 - (iii) employers admitted under Article 4 of the Law or this Regulation shall exercise their powers under the scheme in consultation with the Chief Minister.⁴³

(2) If –

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- (a) an employer who has replaced a department or part of a department administered by a Minister applies, under paragraph (1)(b), for the admission of employees to participate in the scheme; or
 - (b) an employer who has otherwise taken over the employment of any employees who are members of the scheme applies under paragraph (1)(b) for their admission to participate in the scheme, and the Chief Minister in consultation with the Committee decides that the manner in which their employment has been taken over is a justifiable reason for this paragraph to apply,

the following provisions shall apply to such of those employees as were employed by that employer on the effective date of the application and were members of the scheme immediately before the replacement or taking over –

- (i) notwithstanding the requirement in paragraph (1)(b) that employees are to be admitted under that sub-paragraph to participate in the scheme as members to whom the 1989 New Members Regulations apply, those employees shall be admitted under paragraph (1)(b) as members under the Regulations that applied to them immediately before the replacement or taking over;
 - (ii) they shall for the purposes of the Law be deemed to have been employed, by the employer making the application, immediately before the replacement or taking over; and
 - (iii) accordingly, the re-admission provisions in the Regulations that so applied to them shall not, by reason only of the replacement or taking over, be applicable to them.⁴⁴
- (3) In paragraph (2), “the effective date of the application” means the date on which it is made, or such other date as may be agreed between the employer and the Chief Minister, after the latter has consulted the Committee.⁴⁵
 - (4) An employer other than the States or the States Employment Board may give 6 months’ notice to the Committee that the employees in the employment of that employer shall cease to participate in the scheme and the Chief Minister may (subject, if the provisions of paragraph (2) apply, to the agreement of the Committee) give such an employer 6 months’ notice to like effect. When such notice has expired, the Committee shall arrange for such part of the assets of the scheme as are certified by the Actuary to be appropriate to be set aside and disposed of for the benefit of those employees –
 - (a) if the employer so requests, and subject to the Committee being satisfied that the terms of the transfer are equitable in all the circumstances, by transferring to a pension scheme of that employer such part of the assets of the scheme as in the opinion of the Actuary relates to those employees who become members of that pension scheme; or
 - (b) in respect of those employees for whom no such transfer is made, by –

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- (i) purchasing, in accordance with the provisions of paragraph (5), from an insurance company or insurance office of good repute, annuities for the purpose of satisfying any pension or other benefits which may in the future become payable under the scheme by virtue of their membership, or
 - (ii) if the employee so requests by a date to be specified by the Committee, by paying a transfer value to the trustees or managers of a pension scheme or personal pension scheme.⁴⁶
- (5) Where pursuant to paragraph (2) annuities are to be purchased –
- (a) any increases on pensions in payment and on deferred pensions shall (in lieu of being as provided by Regulation 11) be as determined by the Committee on the advice of the Actuary, having regard to the proportion of the assets of the scheme which are 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.
- (6) No person on whose behalf an annuity is purchased or a transfer value is paid under the provisions of this Regulation shall thereafter have any claim on, or interest in, the scheme.

10 Alteration of scheme

A recommendation by the Committee to the States (through the Chief Minister) that the Regulations governing the scheme shall be altered or repealed or that new Regulations should be made to the exclusion of or in addition to all or any of the existing Regulations shall be supported by a majority of the employer representatives and a majority of the member representatives present.

11 Pension increases

All pensions in payment from the scheme and all deferred pensions and deferred lump sums (including pensions and lump sums determined at normal retiring age under Regulation 5 or 10(4) of the Former Hospital Scheme Regulations which have been deferred owing to the employee remaining in membership beyond normal retiring age) shall be reviewed annually in January by the Committee and shall be increased to the same extent as the increase in the Jersey Cost of Living Index at the end of the previous year:

Provided that –

- (i) a pension which came into payment during the previous year or a deferred pension entitlement (and any corresponding deferred lump sum entitlement under the Former Hospital Scheme Regulations) which came into existence during the previous year shall be increased only by $\frac{1}{365}$ of the full annual rate for each day of payment or entitlement,
- (ii) where a deficiency has been disclosed by an actuarial review the increase in pensions in payment and deferred pensions

(and any corresponding deferred lump sum entitlement under the Former Hospital Scheme Regulations) shall, if appropriate, be reduced or cancelled as provided in Regulation 6(3)(e),

- (iii) where a reduction and/or cancellation has taken place under proviso (ii), the Committee shall apply any money available under Regulation 6(3)(a) in or towards making good the loss of any individual pensioner or deferred pensioner still alive caused by such reduction or cancellation within the 5 years preceding the date of that determination.⁴⁷

12 Accounts and records

The Treasurer shall prepare annual accounts of the scheme and have them professionally audited and shall keep or cause to be kept such records as are necessary for the proper working of the scheme. The Treasurer shall provide the Committee and the Actuary with copies of the accounts and such other information as they may reasonably require.

13 Delegation

Subject to Regulation 5(2), the Committee may delegate to any person, firm or corporate body all or any of the powers, authorities or discretion vested in it under the scheme on such terms as to remuneration or otherwise as the Committee shall agree. The Committee may also revoke any delegation made under this Regulation.

14 Persons incapable of acting

If a member, deferred pensioner or pensioner to whom a benefit is payable under these Regulations by virtue of the member's participation in the scheme is, in the opinion of the Committee, suffering from any physical or other incapacity rendering the member unable to manage the member's affairs or to give a proper receipt of such benefit, it may at its discretion pay the same to any of the member's relatives or dependants or to any institution to be applied for the member's benefit, and the receipt of any such person or institution shall be a complete discharge to the Committee for the money paid and it shall be under no liability to see to the application thereof.

15 Tax deductions

The Treasurer shall deduct from any payment of benefit under the scheme any tax for which the Treasurer or the scheme may be liable in respect of that payment.

16 Production of evidence and information

- (1) A member shall be bound to produce such evidence and information satisfactory to the Committee relating to age, marriage, health or otherwise as it may require for the purposes of the scheme, and the Committee may make membership of the scheme and the payment of benefit under the scheme to any person conditional upon production by that person of such evidence or information as it may reasonably require.
- (2) Where any sum is payable to a personal representative there shall first be produced to the Committee the grant of representation. Where representation has not been taken out, and any sums payable by the Committee to a personal representative do not exceed in total £5,000 (or such higher amount as the Minister for Treasury and Resources may by Act direct) the Committee may pay the sum to the person whom it is satisfied is entitled to a grant of representation. A receipt given by such a person shall be a valid discharge as though it had been given by the personal representative.

17 Change of duties

In the case of a member who changed the member's duties while remaining in employment or on rejoining the scheme so that the member became or ceased to be a category A or category B member (as defined in the 1989 Existing Members Regulations or the 1989 New Members Regulations) or a member to whom Regulation 17, 18, 19 or 20 of the 1967 Regulations applies or a member to whom Regulation 18 of the Former Hospital Scheme Regulations applies, the benefits payable to and in respect of the member from the scheme shall be determined, notwithstanding the other provisions of these Regulations and such other Regulations governing the scheme as are applicable to the member, on the basis that the member's pensionable service (or, in the case of 1967 Regulations, service) in respect of the member's previous duties shall be adjusted by the Actuary to take into account the change in the rate of accrual of benefit.⁴⁸

18 Administration of scheme

It shall be the duty of the Treasurer to administer the scheme in accordance with the Regulations governing the scheme.

19 Citation

These Regulations may be cited as the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989	R&O.7956	1 January 1988
Public Employees (Contributory Retirement Scheme) (General) (Amendment) (Jersey) Regulations 1991	R&O.8210	1 November 1990
Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 2) (Jersey) Regulations 1991	R&O.8313	18 December 1991
Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 3) (Jersey) Regulations 1992	R&O.8446	1 January 1990
Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 4) (Jersey) Regulations 1994	R&O.8705	27 July 1994
Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 5) (Jersey) Regulations 1995	R&O.8805	30 March 1995, (Reg. 1(a) and 3 in force 1 January 1990, Reg. 1(b) and (c) in force 1 January 1988)
Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 6) (Jersey) Regulations 1998	R&O.9251	1 July 1998 (Reg. 1 in force 1 January 1996)
Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 7) (Jersey) Regulations 2000	R&O.64/2000	1 August 2000
Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 8) (Jersey) Regulations 2002	R&O.171/2002	1 January 2003
Public Employees (Retirement) (Additional Contributions – Amendments) (Jersey) Regulations 2005	R&O.105/2005	To be taken to have come into force on 1 January 2002 (by virtue of Regulation 6), except for Regulation 5 – 9 December 2005
States of Jersey (Amendments and Construction Provisions No. 1) (Jersey) Regulations 2005	R&O.42/2005	9 December 2005

Public Employees (Contributory Retirement Scheme) (General)
(Jersey) Regulations 1989

Endnotes

Legislation	Year and No	Commencement
Employment of States of Jersey Employees (Consequential, Amendment, Repeal, Transitional and Savings Provisions) (Jersey) Regulations 2005	R&O.155/2005	9 December 2005

Table of Renumbered Provisions

Original	Current
1(1)	1
1(2),(3),(4)	spent, omitted from this revised edition
5(2A)	5(3)
(2B)	(4)
(2C)	(5)
(3)	(6)
(3A)	(7)
(3B)	(8)
(4)	(9)
(5)	(10)
(5A)	(11)
7(2A)	7(3)
(3)(aa)	(4)(b)
(b)	(c)
(4)	(5)
7A	8
8(1)(b)(iiiA)	9(1)(b)(iv)
(iiiB)	(v)
(iv)	(vi)
(1A)	(2)
(1B)	(3)
(2)	(4)
(3)	(5)
(4)	(6)
9	10
10	11
11	12
12	13
13	14
14	15
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17	18
18	19

Table of Endnote References

¹	<i>These Regulations have been amended by the States of Jersey (Amendments and Construction Provisions No. 1) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government</i>
²	<i>chapter 16.650</i>
<i>Recital</i>	<i>amended by R&O.8705</i>
³ <i>Regulation 1</i>	<i>definition "1990 appointed day" inserted by R&O.8446</i>
⁴ <i>Regulation 1</i>	<i>definition "employee" amended by R&O.8446</i>
⁵	<i>chapter 16.325</i>
⁶	<i>chapter 16.650.12</i>
⁷ <i>Regulation 1</i>	<i>definition "Former Hospital Scheme" inserted by R&O.8446</i>
⁸	<i>chapter 16.650.24</i>
<i>Regulation 1</i>	<i>definition "Former Hospital Scheme Regulations" inserted by R&O.8446</i>
⁹	<i>chapter 16.650</i>
¹⁰ <i>Regulation 1</i>	<i>definition "member" amended by R&O.8446</i>
¹¹	<i>chapter 16.650.60</i>
¹²	<i>chapter 16.650.48</i>
¹³ <i>Regulation 1(1)</i>	<i>amended by R&O.155/2005</i>
¹⁴ <i>Regulation 2</i>	<i>amended by R&O.8446</i>
¹⁵ <i>Regulation 3(2)</i>	<i>amended by R&O.8313, R&O.8446</i>
¹⁶ <i>Regulation 3(5)</i>	<i>amended by R&O.8446</i>
¹⁷ <i>Regulation 4(1)</i>	<i>amended by R&O.8446</i>
¹⁸ <i>Regulation 4(2)</i>	<i>amended by R&O.8446, R&O.8705</i>
¹⁹ <i>Regulation 4(4)</i>	<i>amended by R&O.8705</i>
²⁰ <i>Regulation 4(5)</i>	<i>inserted by R&O.8705</i>
²¹ <i>Regulation 4(6)</i>	<i>inserted by R&O.8705</i>
²² <i>Regulation 4(7)</i>	<i>inserted by R&O.105/2005</i>
²³ <i>Regulation 4A</i>	<i>inserted by Regulation 5 of R&O.105/2005; former Article inserted by Regulation 2 of those Regulations</i>
²⁴ <i>Regulation 5(2)</i>	<i>amended by R&O.8705</i>
²⁵ <i>Regulation 5(3)</i>	<i>inserted by R&O.8705</i>
²⁶ <i>Regulation 5(4)</i>	<i>substituted by R&O.64/2000; former paragraph inserted by R&O.8705</i>
²⁷ <i>Regulation 5(5)</i>	<i>inserted by R&O.64/2000</i>
²⁸ <i>Regulation 5(7)</i>	<i>inserted by R&O.8705</i>
²⁹ <i>Regulation 5(8)</i>	<i>inserted by R&O.8705</i>
³⁰ <i>Regulation 5(11)</i>	<i>inserted by R&O.8705</i>
³¹ <i>Regulation 6(1)</i>	<i>amended by R&O.9251</i>
³² <i>Regulation 6(3)</i>	<i>amended by R&O.8446, R&O.105/2005</i>
³³ <i>Regulation 6(4)</i>	<i>inserted by R&O.9251</i>
³⁴ <i>Regulation 7(1)</i>	<i>amended by R&O.8446, R&O.8805</i>
³⁵ <i>Regulation 7(3)</i>	<i>inserted by R&O.8805</i>
³⁶ <i>Regulation 7(4)</i>	<i>amended by R&O.8446, R&O.8805</i>
³⁷ <i>Regulation 7(5)</i>	<i>inserted by R&O.8446</i>
³⁸ <i>Regulation 8</i>	<i>inserted by R&O.8210</i>
³⁹ <i>Regulation 8(2)</i>	<i>amended by R&O.8805</i>
⁴⁰ <i>Regulation 8(4)</i>	<i>amended by R&O.8446</i>
⁴¹ <i>Regulation 8(5)</i>	<i>amended by R&O.8446, R&O.8805</i>

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- ⁴² Regulation 8(6) substituted by R&O.64/2000
⁴³ Regulation 9(1) amended by R&O.8446, R&O.9251
⁴⁴ Regulation 9(2) inserted by R&O.9251
⁴⁵ Regulation 9(3) inserted by R&O.9251
⁴⁶ Regulation 9(4) amended by R&O.9251, R&O.155/2005
⁴⁷ Regulation 11 amended by R&O.8446, R&O.8805
⁴⁸ Regulation 17 amended by R&O.8446, R&O.171/2002