



Jersey

TEACHERS' SUPERANNUATION (NEW MEMBERS) (JERSEY) ORDER 2007

Arrangement

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TEACHERS' SUPERANNUATION (NEW MEMBERS) (JERSEY) ORDER 2007

Made 28th March 2007

Coming into force 29th March 2007

THE CHIEF MINISTER, in pursuance of Articles 2 and 7 of the Teachers' Superannuation (Jersey) Law 1979¹, and after consultation with the Management Board, orders as follows –

PART 1

INTERPRETATIVE PROVISIONS

1 Interpretation

In this Order, unless the context otherwise requires –

“accepted school” means a school that is an accepted school under the Administration Order;

“added years” means the period of notional pensionable service that may be granted to a member on account of –

- (a) any refund or transfer value paid to the Fund under the Administration Order;
- (b) any additional voluntary contributions paid under Article 12 (and related employer contributions);
- (c) augmentation pursuant to Article 37; and
- (d) any pensionable allowance;

“Administration Order” means the Teachers' Superannuation (Administration) (Jersey) Order 2007²;

“average salary” means final pensionable salary, calculated without reference to any pensionable allowance giving rise to added years of pensionable service under Article 41;

“child” means, in relation to an individual who is a member, pensioner or deferred pensioner –

- (a) any person who has not attained the age of 16 years and who is a natural child of that individual, whether or not born of a marriage entered into by that individual;
- (b) any person who has not attained the age of 16 years and who is a step-child of that individual by virtue of a marriage entered into by that individual;
- (c) any person who has not attained the age of 16 years and who is legally adopted by that individual;
- (d) any person who has not attained the age of 16 years and who the Management Board is satisfied is a proper recipient of a child's pension under this Order;
- (e) any person who is a child *en ventre sa mère* at the date of that individual's death who would be within sub-paragraph (a) or (b);
- (f) any person who –
 - (i) has attained the age of 16 years (but has not attained the age of 23 years),
 - (ii) if the person were to be taken to have not attained the age of 16 years, would be within sub-paragraph (a), (b) or (c), and
 - (iii) is a person –
 - (A) receiving full-time education in an educational establishment approved by the Management Board, or
 - (B) not receiving full-time education but who the Management Board is satisfied that it remains appropriate to treat the person as a child for the purposes of this Order;

“deferred pensioner” means a former member entitled to a pension under Article 20 which has not yet become payable;

“dependant” means, in relation to any individual who is a deceased member, deferred pensioner or pensioner –

- (a) any adult person; or
- (b) any person who is not an adult and is not a child as defined in this Order,

who was, at the time of the death of the individual or when an election took place under Article 35, dependant on him or her for the provision of all or most of the ordinary necessities of life;

“eligible employee” means a person who is certified to be an eligible employee under Article 6;

“employer representative” means a member of the Management Board who has been appointed as an employer representative in accordance with Article 3 of the Administration Order;

“employee” has the meaning assigned by Article 2;

“employer” has the meaning assigned by Article 3;

“final pensionable salary” has the meaning assigned by Article 4;

“full-time employee” means an employee who is employed for 25 hours or more a week and who is not a supply teacher;

“investment manager” means a person appointed as an investment manager in accordance with the Administration Order;

“Law” means the Teachers' Superannuation (Jersey) Law 1979;

“lump sum recipient” has the meaning assigned by Article 5;

“Management Board” means the Management Board established in accordance with Article 2 of the Administration Order;

“member” means an employee who joins the scheme under Article 7, for so long as the member remains an employee, and “membership” shall be construed accordingly;

“normal retiring age” means 65 years;

“organiser of teachers” means a person in employment which involves the performance of duties in connection with the provision of education or services ancillary to education;

“part-time employee” means –

- (a) any employee who regularly works for less than 25 hours a week; and
- (b) a supply teacher;

“part-time hours” means any hours of work per week that are less than 25 hours a week;

“pensionable allowance” means a payment or allowance which is for the time being declared under Article 38 to be a pensionable allowance;

“pensionable service”, in relation to a member, means, subject to Article 8(5), (7) and (9), Article 9(5), (7) and (9) and Article 45, the member's last or only period of continuous service whilst a member of the scheme in accordance with this Order;

“pensioner” means a former member or deferred pensioner receiving a pension under this Order;

“qualifying service”, in relation to a member, means, subject to Article 8(5), (7) and (9) and Article 9(5), (7) and (9), the member's last or only period of continuous service whilst a member of the scheme in accordance with this Order, together with –

- (a) where the Treasurer has received a payment on the member's behalf from a transferring arrangement in accordance with Article 20 of the Administration Order (whether directly or indirectly) –
 - (i) if the transferring arrangement is a policy of a like nature to an annuity or a personal pension scheme, the added years awarded in respect of that payment, or
 - (ii) if the transferring arrangement is not a policy of a like nature to an annuity or a personal pension scheme, the period of pensionable service under the transferring arrangement

(excluding any notional pensionable service granted by the transferring arrangement); and

(b) any period of notional qualifying service awarded under Article 37;

“relations”, in relation to a member, means –

(a) the widow or widower of the member or any former husband or wife of the member;

(b) any child or other descendant of the member and the husband or wife or widow or widower of any such child or other descendant;

(c) the father or mother (whether natural or adoptive) or other ancestor of the member and the widow or widower of such father or mother or other ancestor; and

(d) any brother or sister of the member (whether of the whole blood or the half blood and whether natural or adoptive) and the widow or widower of any such person,

and for this purpose “child” includes a stepchild, a legally adopted child and a child to whom in the opinion of the Management Board the member or other person as appropriate stands (or would but for the member’s death have stood) *in loco parentis*;

“salary”, in relation to a member, means the basic salary or wage of the member (disregarding overtime payments, other emoluments of a temporary nature and payments in respect of untaken leave) together with the member’s pensionable allowances (if any);

“scheme” means the pension scheme established by this Order;

“service” means the period of employment with an employer computed in years and complete days;

“spouse” means a widow or widower;

“supervisor of teachers” means a person employed in a capacity connected with education which to a substantial extent involves the supervision or the control of teachers;

“supply teacher” means an employee who is, under a contract under which the first day of employment is on or after 1st April 2007 and that is terminable without notice, employed as a teacher temporarily in the place of a regularly employed teacher;

“teacher” means a teacher, a supervisor of teachers, or an organiser of teachers, who is employed by or on behalf of the States or an accepted school;

“Treasurer” means the Treasurer of the States.

2 Meaning of “employee”

- (1) In this Order, “employee” means a person who is employed by an employer as a teacher under a contract of employment under which the first day of the person’s employment is on or after 1st April 2007 and includes a person who was an employee for the purposes of this Order.

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- (2) For the avoidance of doubt, a person remains an employee under paragraph (1) even if he or she is –
- (a) on ordinary leave on full pay, including leave pending the termination of the teacher's contract of service;
 - (b) on sick leave (recorded as sick leave by the teacher's employer) if –
 - (i) he or she is entitled to at least half-pay (disregarding any reduction or refund provided for by the terms of the teacher's employment), and
 - (ii) has not been continuously absent on sick leave for more than 12 months;
 - (c) on special leave on full pay; or
 - (d) suspended from duty on full pay.
- (3) The proprietor of a school that is an accepted school shall not be an employee for the purposes of this Order.

3 Meaning of “employer”

In this Order, “employer” means –

- (a) the States Employment Board within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005, in respect of the States or any administration of the States; and
- (b) any other employer, on behalf of an accepted school, of persons who are teachers, including a governing body or other body of managers that employs teachers on behalf of an accepted school.

4 Meaning of “final pensionable salary”

- (1) In this Order, “final pensionable salary” means, subject to Article 45 –
- (a) the salary received by a member during the best successive 365 days in the 3 years immediately before the day on which the member ceases to be an employee; or
 - (b) if the member has received salary for less than 365 days in the last 3 years, the total salary received in the last 3 years divided by the numbers of days for which the member received salary in those years multiplied by 365.
- (2) A member whose salary has, to the satisfaction of the Management Board, been reduced or discontinued owing to ill-health or injury, shall be taken for the purposes of this Article to have received the salary which the member would otherwise have received (but for the reduction or discontinuance) as certified by the employer.
- (3) If during the 3 years immediately before the day on which the member ceases to be an employee –
- (a) the member was absent from duty in accordance with Article 10(1); and

- (b) contributions were paid in respect of the member's absence on the basis of the salary the member would have received (as determined by the employer),
the salary shall be taken into account for the purpose of determining final pensionable salary.
- (4) If during the 3 years immediately before the day on which the member ceases to be an employee –
 - (a) the member was absent from duty in accordance with Article 10(1); and
 - (b) contributions were not paid in respect of the member's absence,
the period of absence shall be disregarded for the purpose of determining final pensionable salary.
- (5) If the period of absence is disregarded under paragraph (4), the 3 years immediately before the day on which the member ceases to be an employee shall mean –
 - (a) the period from the day the member returned from absence to the day the member ceases to be an employee; and
 - (b) the period immediately before the day on which the member's absence commenced which, when added to the period in sub-paragraph (a), equals 3 years,
and the 2 periods in sub-paragraphs (a) and (b) shall be treated as if they were continuous.

5 Meaning of "lump sum recipient"

- (1) In this Order, "lump sum recipient", in relation to a member, means one or more of a class consisting of –
 - (a) any of the member's relations or dependants;
 - (b) any individual or person nominated by the member under paragraph (2); and
 - (c) the member's estate,
who or which is determined by the Management Board under paragraph (3) to be a recipient of a lump sum payable on the death of a member.
- (2) A member may by notice in writing to the Management Board request the Management Board to determine that a person nominated in the notice shall, during the member's lifetime, receive the whole or any part of the member's benefit.
- (3) The Management Board may determine that a relation, dependant, individual, person nominated under paragraph (2) or a member's estate shall be a recipient of a lump sum payable on the death of a member.

PART 2**ELIGIBILITY AND MEMBERSHIP****6 Certification of eligible employees and pensionable contracts**

- (1) An employer may certify to be an eligible employee a person who is –
 - (a) a full-time employee who is employed by the employer on a permanent basis;
 - (b) a full-time employee who is employed by the employer on a fixed term contract which is, with the consent of the Minister under paragraph (2), expressed to be pensionable;
 - (c) a part-time employee who is employed by the employer on a permanent basis;
 - (d) a part-time employee who is employed by the employer on a fixed term contract which is, with the consent of the Minister under paragraph (2), expressed to be pensionable; and
 - (e) a person who is employed by the employer as a supply teacher under a contract which is, with the consent of the Minister under paragraph (2), expressed to be pensionable.
- (2) The Minister may, on the application of an employer, consent to a class of contracts to which the employer is or intends to be a party being expressed as pensionable.

7 Eligibility and membership

- (1) Subject to this Order, a full-time employee who is an eligible employee shall be a member of the scheme if –
 - (a) he or she has attained the age of 20 years; and
 - (b) he or she shall not, on entering service, be within 5 years of normal retiring age.
- (2) Subject to this Order, a part-time employee who is an eligible employee shall be a member of the scheme if –
 - (a) he or she has attained the age of 20 years;
 - (b) he or she shall not, on entering service, be within 5 years of normal retiring age; and
 - (c) he or she elects to become a member of the scheme.
- (3) A person who was, but has ceased to be, employed in reckonable service within the meaning of the Teachers' Superannuation (Existing Members) (Jersey) Order 1986 and who is an eligible employee shall be a member of the scheme if he or she elects to become a member of the scheme.
- (4) A person to whom paragraph (3) applies may only elect to become a member of the scheme before 4 weeks after he or she becomes an eligible employee.
- (5) A person to whom paragraph (2) or (3) applies may elect to become a member of the scheme by giving notice in writing to the Minister.

- (6) An election for the purposes of paragraph (5) shall be irrevocable.
- (7) An election for the purposes of paragraph (5) by a person shall have effect from –
 - (a) the first day of the month after the month in which the Minister notifies the person that the election has been received by the Minister; or
 - (b) an earlier day approved by the Minister.

8 Application to former member who again becomes employee

- (1) In this Article –
 - “previous period” means a period during which a person was a member and was not a re-admitted member;
 - “re-admitted member” means a person who was a member of the scheme, but ceased to be such a member, and who subsequently becomes a member of the scheme again under Article 7.
- (2) A re-admitted member who is entitled to a deferred pension in respect of a previous period of membership may, by notice in writing to the Management Board, waive his or her entitlement to the deferred pension.
- (3) Paragraph (5) applies to a member who becomes a re-admitted member if –
 - (a) he or she is entitled to a deferred pension in respect of a previous period of membership and has, under paragraph (2), requested to waive the entitlement; or
 - (b) he or she is not entitled to a deferred pension in respect of the previous period of membership and has not –
 - (i) elected to receive a refund of his or her contributions under Article 20(2)(b),
 - (ii) received, nor is due to receive, a refund under Article 21(2)(a), or
 - (iii) had, under the Administration Order, a transfer value paid in respect of his or her previous membership of the scheme.
- (4) A member to whom paragraph (5) applies may, by notice in writing to the Management Board, make a request for the purposes of paragraph (5)(a).
- (5) If a member to whom this paragraph applies makes a request under paragraph (4) –
 - (a) his or her pensionable service and qualifying service after the date he or she becomes a re-admitted member shall be treated as continuous with his or her respective previous periods of pensionable service and qualifying service; and
 - (b) any entitlement to a deferred pension, deferred lump sum, refund of contributions or transfer value as mentioned in paragraph (3) shall cease in respect of that member.
- (6) If a person who becomes a re-admitted member received a refund of contributions in respect of the member's respective previous periods of

membership, he or she may pay to the Treasurer the net sum refunded to the member.

- (7) If a member, under paragraph (6), pays to the Treasurer the net sum refunded to the member, the member's pensionable service and qualifying service after the date the person becomes a re-admitted member shall be treated as continuous with the member's respective previous periods of pensionable service and qualifying service.
- (8) However, the periods referred to in paragraph (7) that shall be treated as continuous may be reduced by the Actuary by the amount that the Actuary determines to be appropriate having regard to the loss of –
 - (a) tax deducted when the member received the refund; and
 - (b) investment return.
- (9) Except if paragraph (5) or (7) applies to a person, when a person becomes a re-admitted member (including a person who is a member in respect of whom a transfer value was paid at the end of the member's previous period of pensionable service) –
 - (a) the member's pensionable service and qualifying service under this Order after the date the person becomes a re-admitted member shall be treated as entirely separate from the member's respective previous periods of pensionable service; and
 - (b) qualifying service and any benefits remaining due to the member in respect of the previous periods of pensionable service and qualifying service shall be unaffected by the fact that the member has become a re-admitted member.

9 Application to former teacher who has ceased to be a member of scheme under Teachers' Superannuation (Existing Members) (Jersey) Order 1986

- (1) In this Article –

“former scheme” means the scheme established under the Teachers' Superannuation (Existing Members) (Jersey) Order 1986;

“qualifying service under the former scheme”, in relation to a member, means the member's last or only period of continuous reckonable service whilst a member of the former scheme, together with –

 - (a) if the Treasurer has received a payment on the member's behalf from a transferring arrangement in accordance with Article 20 of the Administration Order (whether directly or indirectly) –
 - (i) where the transferring arrangement is a policy of a like nature to an annuity or a personal pension scheme – the added years awarded in respect of that payment, or
 - (ii) where the transferring arrangement is not a policy of a like nature to an annuity or a personal pension scheme – the period of reckonable service under the transferring arrangement (excluding any notional reckonable service or pensionable service granted by the transferring arrangement); and

- (b) any amount of added years that is added under paragraph (2);
- “reckonable service”, in relation to a member, means the person’s reckonable service as determined under the former scheme;
- “transferred member” means a person –
- (a) who was, but has ceased to be, employed in reckonable service;
- (b) who is, after 1st April 2007, a full-time employee or a part-time employee; and
- (c) who becomes a member under Article 7.
- (2) If the Treasurer receives a payment on the member’s behalf from a transferring arrangement in accordance with Article 20 of the Administration Order, the Management Board, on the advice of the Actuary, shall, having regard to the amount of the payment, decide the number of added years of pensionable service that are to be added to the number of years of qualifying service under the former scheme for the purposes of the definition of “qualifying service under the former scheme” in paragraph (1).
- (3) Paragraph (5) applies to a transferring member if –
- (a) neither the member nor any other person has received a benefit under the former scheme in respect of the member;
- (b) he or she has not elected to receive, is not receiving, or is not entitled to receive, in respect of the previous period of membership of the former scheme, a refund of his or her contributions under the former scheme; and
- (c) he or she has not had a transfer value paid in respect of him or her under the former scheme or the Administration Order.
- (4) A member to whom paragraph (5) applies may, by notice in writing to the Management Board, make a request for the purposes of paragraph (5)(a).
- (5) If a member to whom this paragraph applies makes a request under paragraph (4) –
- (a) his or her previous periods of reckonable service shall be treated as pensionable service under this Order;
- (b) he or she shall have his or her pensionable service and qualifying service after the date on which he or she becomes a transferring member treated as continuous with his or her respective previous periods of pensionable service (as determined in accordance with sub-paragraph (a)) and qualifying service under the former scheme; and
- (c) any entitlement in respect of that member under the former scheme shall cease.
- (6) If a transferring member received under the former scheme a refund of contributions in respect of the member’s respective previous periods of membership of the former scheme, he or she may pay to the Treasurer the net sum refunded to the member.
- (7) If a member, under paragraph (6), pays to the Treasurer the net sum refunded to the member under the former scheme –

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- (a) his or her previous periods of reckonable service shall be treated as pensionable service under this Order; and
 - (b) his or her pensionable service and qualifying service after the date on which he or she becomes a transferring member shall, subject to paragraph (8), be treated as continuous with his or her respective previous periods of pensionable service (as determined in accordance with sub-paragraph (a)) and qualifying service under the former scheme.
- (8) However, the period referred to in paragraph (7) that shall be treated as continuous may be reduced by the Actuary by the amount that the Actuary determines to be appropriate having regard to the loss of –
- (a) tax deducted when the member received the refund; and
 - (b) investment return.
- (9) Except if paragraph (5) or (7) applies to a person, when a person becomes a transferring member (including a person in respect of whom a transfer value was paid at the end of the member's previous period of reckonable service) –
- (a) the member's pensionable service and qualifying service under this Order after the date the person becomes a transferring member shall be treated as entirely separate from the member's respective previous periods of reckonable service and qualifying service under the former scheme; and
 - (b) qualifying service under the former scheme and any benefits remaining due to the member in respect of the previous periods of reckonable service shall be unaffected by the fact that the person has become a transferring member.

10 Effect of absence on eligibility

- (1) If a member is absent from duty (other than by reason of ill-health or injury) with the agreement of the employer, the member shall be taken to remain a member for a period of not more than 2 years, or a greater period that the Management Board may determine.
- (2) Pensionable service up to and after a member's period of absence in accordance with paragraph (1) shall be treated as continuous, but the period of absence shall only count as pensionable service if –
 - (a) the member continues to contribute (on the basis of the salary the member would otherwise have received, as determined by the employer); or
 - (b) on the member's return to service the member pays, over the period that the Management Board shall agree, the arrears of contributions.
- (3) If the period of absence in accordance with paragraph (1) counts under paragraph (2), the employer shall –
 - (a) continue to contribute to the scheme (on the basis of the member's salary as determined under paragraph (2)); or

- (b) pay, over the period that the Management Board shall agree, the arrears of contributions.
- (4) If a member ceases to be a member –
 - (a) during a period of absence referred to in paragraph (2); or
 - (b) before the member's full arrears of contributions have been paid under paragraph (3),

the period of absence shall count as pensionable service for the purpose of calculating any benefits payable under the scheme only to the extent determined by the Actuary as appropriate to the contributions that have been paid in respect of the period of absence.

PART 3

CONTRIBUTIONS

11 Member's contributions

- (1) A member shall contribute to the scheme an amount equal to 5% of the member's salary.
- (2) An employee may, in accordance with Articles 18 and 19 of the Administration Order and Article 10(3) of this Order, be required to pay a different amount to the amount referred to in paragraph (1).
- (3) Each employee shall contribute to the scheme the contributions, determined by the Management Board on the advice of the Actuary, that are required to be paid in accordance with a proposal, accepted under Article 18 or 19 of the Administration Order, to increase the contributions payable by an employee.
- (4) The employer shall deduct from each payment of salary to a member the amount of the contribution payable by the member to the scheme.
- (5) If a member is employed by the States Employment Board, the States Employment Board shall, at the time of the payment of salary to the member, remit to the Treasurer the amount deducted under paragraph (4) in respect of the member.
- (6) If a member is employed by or on behalf of an accepted school, the employer of the member shall –
 - (a) on 30th June in a year, remit to the Treasurer the amount deducted under paragraph (4) in respect of the member between 1st January and 30th June in that year; and
 - (b) on 31st December in a year remit to the Treasurer the amount deducted under paragraph (4) in respect of the member between 1st July and 31st December in that year.
- (7) For the purposes of paragraph (6), the annual salary of a teacher shall be taken to be payable in 12 equal monthly instalments, and any arrears of salary due by virtue of any retrospective increase in the teacher's remuneration shall be treated as payable in the month in which they fall to be paid.

12 Additional voluntary contributions

- (1) A member may, by notice in writing to the Management Board, request permission to pay additional voluntary contributions, from a date agreed by the Management Board, in order to be entitled to the number of added years that the Management Board shall decide.
- (2) The Management Board may, after receiving a notice under paragraph (1) –
 - (a) permit or refuse to permit a member to pay additional voluntary contributions;
 - (b) specify the date from which the contributions may be paid; and
 - (c) determine the number of added years to which the member shall be entitled.
- (3) The Management Board may only give its permission under paragraph (2) with the agreement of the Actuary.
- (4) The Actuary shall only agree to the Management Board giving permission to a member to pay additional voluntary contributions under this Article if it is satisfied that the payments will not create an actuarial cost to the fund.
- (5) The payment of additional voluntary contributions shall be subject to the minimum and maximum amounts that the Management Board on the advice of the Actuary may determine.
- (6) A member may vary the amount of the member's additional voluntary contributions with the agreement of the Management Board.
- (7) If a member ceases to be an employee before normal retiring age, any added years by virtue of additional voluntary contributions shall be subject to a reduction determined by the Actuary.
- (8) The reduction shall be such that the value of the contributions paid by and in respect of the member equates to the value of the additional benefits arising from the reduced added years.

13 Contributions where salary reduced

- (1) If –
 - (a) the salary of a member is reduced (other than by reason of ill-health or injury); and
 - (b) in the opinion of the employer the reduction is not due to the wilful fault of the member,

the member may give notice in writing to the Management Board that the member wishes to continue to pay the same amount of contributions as he or she was paying immediately before the reduction.
- (2) The notice may only be given by the member within 3 months of the date on which the reduction takes effect.
- (3) If the Management Board receives from a member a notice under paragraph (1) of a reduction, the member's salary shall be deemed to be,

for the period for which the salary of the member is reduced, an amount equal to that of the member's salary immediately before the reduction.

- (4) A member may, by notice to the Management Board, withdraw a notice given under paragraph (1).
- (5) If the Management Board receives from a member a notice under paragraph (4), the member's salary shall, from the date on which the notice is received, cease to be deemed to be an amount equal to that of the member's salary immediately before the reduction.

14 Employer's contributions

- (1) An employer shall, in relation to a member employed by the employer, contribute to the scheme an amount equivalent to 16.4% of the salary paid to the member.
- (2) An employer may, in accordance with Articles 18 and 19 of the Administration Order and Article 13 of this Order, be required to pay a different amount to the amount referred to in paragraph (1).
- (3) Each employer shall pay to the Treasurer the contributions to the scheme, determined by the Management Board on the advice of the Actuary –
 - (a) that are required to be paid in accordance with a proposal, accepted under Article 18 or 19 of the Administration Order, to increase the contributions payable by an employer; and
 - (b) that an employer is required to pay under Article 17 or 38 of this Order.
- (4) If an employer delays paying into the scheme all or any part of a contribution mentioned in paragraph (1) or (3), the employer shall pay interest on the amount of the delayed payment at the rate determined by Management Board on the advice of the Actuary.
- (5) If a member is employed by the States Employment Board, the States Employment Board shall, at the time of the payment of salary to the member, pay to the Treasurer the amount the employer is required under this Order to contribute in relation to the member in respect of the salary.
- (6) If a member is employed by or on behalf of an accepted school, the employer of the member shall –
 - (a) on 30th June in a year, pay to the Treasurer the amount that the employer is required under this Order to contribute for the period 1st January to 30th June in that year in relation to the salary of the member during that period; and
 - (b) on 31st December in a year, pay to the Treasurer the amount that the employer is required under this Order to contribute for the period 1st July to 31st December in that year in relation to the salary of the member during that period.
- (7) For the purposes of paragraph (6), the annual salary of a teacher shall be taken to be payable in 12 equal monthly instalments, and any arrears of salary due by virtue of any retrospective increase in the teacher's remuneration shall be treated as payable in the month in which they fall to be paid.

PART 4**BENEFITS IN RELATION TO LIVING MEMBERS**

If member retires at or after normal retiring age

15 Retirement at or after normal retiring age

- (1) A member shall be entitled to receive a pension under the scheme if he or she retires from service, or his or her employment as a teacher is terminated, at or after normal retiring age.
- (2) Subject to paragraph (3), the annual rate of the pension shall be 1/80th of the member's average salary for each completed year (and pro rata for completed days) of the member's pensionable service.
- (3) For the purposes of making a calculation under paragraph (2) the number of years of pensionable service of a member (not including any added years) shall not be more than 45.

If member retires before normal retiring age

16 Retirement after 60 years of age but before normal retiring age

- (1) This Article applies to –
 - (a) a member who has completed at least 10 years' pensionable service and who retires, or has his or her employment terminated, not more than 5 years before attaining normal retiring age; and
 - (b) a member –
 - (i) who has not attained the age of 65 years,
 - (ii) who is a member with a normal retiring age of 65 years, and
 - (iii) who is a person –
 - (A) who, after having attained the age of 60 years, retires after completing at least 2 but less than 10 years' pensionable service and, or
 - (B) whose appointment or employment is terminated after he or she has attained the age of 60 years and after he or she has completed at least 2 but less than 10 years' pensionable service.
- (2) A member to whom this Article applies shall receive a pension under the scheme of an amount calculated in accordance with Article 15, reduced by 2.4% for each year (and so in proportion for any part of a year) by which the member's age at the time of his or her retirement, or termination of employment, falls short of normal retiring age.
- (3) A pension payable under paragraph (2) shall be payable –
 - (a) from the date of the member's retirement; or

- (b) if the member’s employment is terminated, from the date the employment of the member is terminated.
- (4) Despite paragraphs (2) and (3), if a member to whom this Article applies elects to do so, he or she shall be paid a pension calculated in accordance with Article 15 that is payable from the date the member attains normal retiring age.
- (5) A member may make an election under paragraph (4) by giving notice in writing to the Management Board at any time before receiving a pension calculated in accordance with paragraph (2).

17 Retirement before normal retiring age – ill-health

- (1) A member who retires at any time before normal retiring age shall be entitled to receive a pension under the scheme if –
 - (a) he or she has completed 2 or more years’ qualifying service before normal retiring age; and
 - (b) his or her employer is satisfied that the member is incapable of discharging efficiently the duties of the member’s employment by reason of permanent ill-health or disability of mind or body.
- (2) If a member becomes entitled to a pension under paragraph (1), the Management Board may, after –
 - (a) considering medical reports on the member; and
 - (b) consulting the Actuary,
 require the employer to meet any additional costs that the Actuary may determine to be payable in relation to the member.
- (3) The pension to which a member becomes entitled under paragraph (1) shall be payable to the member as from the date of the member’s retirement.

18 Calculation of amount of pension payable where retirement before normal retiring age – ill-health

- (1) The pension to which a member becomes entitled under Article 17 shall be calculated in accordance with Article 15, as if the person’s period of pensionable service were the person’s period of pensionable service increased by the relevant additional period, if any, determined in accordance with the following table.

TABLE	
<i>Column 1</i>	<i>Column 2</i>
Period of pensionable service (excluding added years under Article 12 or 41)	Additional period
Not more than 5 years	Nil

More than 5 years but not more than 10 years	A period of the same length as the period of pensionable service
More than 10 years but not more than 13 $\frac{1}{3}$ years	The period that increases the period of pensionable service to 20 years
More than 13 $\frac{1}{3}$ years	6 $\frac{2}{3}$ years

- (2) However, paragraph (1) is subject to this Article and Article 41(8).
- (3) The additional period for the purposes of paragraph (1) shall be limited so that the member's pensionable service (as increased by the additional period) is not more than the period of pensionable service which would have applied if the member had remained in service until normal retiring age.
- (4) Paragraph (3) is subject to Article 41(10) to (13).
- (5) If a member is or has at any time been a part-time employee, the additional period for the purposes of paragraph (1) shall be reduced in accordance with paragraphs (7) and (8).
- (6) The additional period for the purposes of paragraph (1) shall be initially determined without applying the limit under paragraph (3), as if the member had always been employed as a full-time employee.
- (7) The additional period for the purposes of paragraph (1) determined under paragraph (5) shall be reduced –
- by multiplying it by the member's pensionable service as determined under Article 45 to reflect the member's employment as a part-time employee; and
 - by dividing it by the member's pensionable service determined as if the member had always been employed as a full-time employee.
- (8) For the purpose of calculating the reduced additional period under paragraph (7)(b) there shall be excluded from the member's pensionable service –
- the additional period under this Article;
 - any added years on account of any additional voluntary contributions paid under Article 12 (and any related employer contributions); and
 - any pensionable allowance giving rise to added years of service under Article 41.
- (9) The reduced additional period under paragraph (7) shall be limited, in accordance with paragraph (8), on the basis that –
- subject to Article 41(10) to (13), for the purpose of calculating the period of pensionable service which would have applied if the member had remained in service until normal retiring age, the period shall be determined under Article 45; and
 - the extent (if any) to which the member worked part-time hours immediately before the date of the member's retirement shall be treated as remaining unaltered from the date of the member's

retirement to the date the member would have attained normal retiring age.

- (10) If a member's hours worked have, to the satisfaction of the Management Board, been reduced or discontinued owing to ill-health or injury, the member shall be deemed for the purpose of paragraph (9) to have worked the hours which the member would otherwise have worked (but for the reduction or discontinuance) as certified by the employer.

19 Medical examination where pension payable due to ill-health, and re-entry into service upon ceasing to suffer from ill-health

- (1) The Management Board may require a person receiving a pension by virtue of Article 17 to undergo from time to time medical examinations as the Management Board thinks fit.
- (2) If a person refuses to undergo an examination after being required to do so under paragraph (1), the person's pension, or the part of the pension that the Management Board may deem appropriate, shall be withheld.
- (3) The member shall, by virtue of this Article, cease to be entitled to receive a pension if –
- (a) as a result of a medical examination carried out in pursuance of paragraph (1) the Management Board is advised that the person is able to perform efficiently duties which are compatible with his or her former employment; and
- (b) an employer offers the person such employment.
- (4) The member who ceases to be entitled to receive a pension in accordance with paragraph (3) shall cease to receive the pension from the date of his or her re-entering service or 3 months from the date of the offer of re-employment, whichever date is the earlier.
- (5) If a person who has ceased to be entitled to receive a pension in accordance with paragraph (3) re-enters service, the person's pensionable service up to his or her period of absence from employment shall be treated as continuous with his or her pensionable service after he or she re-enters service.
- (6) A person who has ceased to be entitled to receive a pension in accordance with paragraph (3) who does not re-enter service shall be entitled to a pension under Article 20, calculated as at the date he or she ceased to be an employee.

If member not otherwise entitled to pension under this Part

20 Where member not otherwise entitled under this Part has completed at least 2 years' qualifying service

- (1) This Article applies to a member –
- (a) who ceases to be an employee after completing at least 2 years' qualifying service; and
- (b) who is not entitled to a pension under Article 15, 16 or 17.

- (2) A member to whom this Article applies shall be entitled –
 - (a) to a deferred pension, calculated in accordance with Article 15, that is payable from the date the member attains normal retiring age;
 - (b) to a refund, calculated in accordance with Article 22, of his or her contributions to the scheme; or
 - (c) to be paid a transfer value in respect of the member in accordance with Article 21 of the Administration Order.
- (3) A member shall only be entitled to a refund under paragraph (2)(b) if he or she gives notice to the Management Board to that effect within 3 months of ceasing to be an employee.
- (4) A member shall only be entitled under paragraph (2)(c) to be paid a transfer value if the Treasurer agrees under Article 21 of the Administration Order to the payment.
- (5) The transfer value payable in accordance with paragraph (2)(c) –
 - (a) may only reflect the provisions of this Order applicable on the date the member requests payment; and
 - (b) shall exclude any amendments subsequently made to this Order that have an effective date on or before the date the member requests payment.
- (6) If a member who chooses to take a deferred pension in accordance with paragraph (2)(a) is a member whose normal retiring age is the age of 65 years, the member may, at any time after attaining the age of 60 years, elect to receive the pension earlier.
- (7) A member shall make an election under paragraph (6) by giving notice in writing to the Management Board.
- (8) If a member makes an election under paragraph (6), he or she shall be paid a pension calculated in accordance with Article 15 reduced by a neutral percentage for each year (and so in proportion for any part of a year) by which the member's age at the time when payment of the pension starts falls short of the age of 65 years.
- (9) In paragraph (8) "neutral percentage", in respect of a reduced pension paid early to a member, means the percentage, calculated by the Actuary at the time payment of the reduced pension starts.
- (10) The calculation of the neutral percentage under paragraph (9) shall ensure that payment of the reduced pension will have the same effect on the funds of the scheme as payment of a pension calculated in accordance with Article 15 and not paid early would have had.

21 Where member not otherwise entitled under this Part has completed less than 2 years' qualifying service

- (1) This Article applies to a member –
 - (a) who ceases to be an employee after completing less than 2 years' qualifying service; and
 - (b) who is not entitled to a pension under Article 15, 16 or 17.

- (2) A member to whom this Article applies shall be entitled –
 - (a) to a refund, calculated in accordance with Article 22, of his or her contributions to the scheme; or
 - (b) to be paid a transfer value in respect of the member in accordance with Article 21 of the Administration Order.
- (3) The member shall notify the Management Board if he or she elects to receive a refund of his or her contributions to the scheme.
- (4) A member shall only be entitled under paragraph (2)(b) to be paid a transfer value if –
 - (a) he or she has, within 12 months of ceasing to be an employee, notified the Management Board in writing that he or she wishes a transfer value to be paid in respect of him or her; and
 - (b) the Treasurer agrees under Article 21 of the Administration Order to the payment.
- (5) The transfer value payable in accordance with paragraph (2)(b) –
 - (a) may only reflect the provisions of this Order applicable on the date the member requests payment; and
 - (b) shall exclude any amendments subsequently made to this Order that have an effective date on or before the date the member requests payment.

22 Calculation of amount of refund of contributions under Articles 20 and 21

- (1) If a member elects to receive a refund of his or her contributions under Article 20(2)(b) or 21(2)(a), the member shall be entitled to receive a sum equal to the aggregate amount determined under paragraph (2).
- (2) The sum shall be the aggregate of –
 - (a) the contributions the member paid to the scheme during the member's last or only continuous period of membership of the scheme;
 - (b) if Article 10 applies to the member and –
 - (i) the member did not receive a refund of contributions, and
 - (ii) a transfer value was not paid,in respect of that member's membership of the scheme during the period he or she was absent from duty, the total of that member's contributions paid during his or her period of membership of the scheme before being absent from duty;
 - (c) the net sum, if any, that member paid to the Treasurer under Article 8(6) or 9(6);
 - (d) subject to Article 20(8) of the Administration Order, any contributions that –
 - (i) the member paid to any pension scheme of which the member was previously a member, and
 - (ii) have been transferred to the scheme under Article 20 of the Administration Order; and

- (e) compound interest on the contributions.
- (3) The compound interest referred to in paragraph (3) shall be calculated as follows –
 - (a) the calculation shall involve half-yearly rests at 30th June and 31st December;
 - (b) the amounts determined in accordance with paragraph (2)(a) and (b) shall be sub-divided into amounts of contributions paid in each 6 month period commencing on the day after each half-yearly rest and ceasing on the day of the next half-yearly rest;
 - (c) the amount (if any) determined in accordance with paragraph (2)(c) shall be added to the amounts relating to the 6 month period which includes the date that the Treasurer received the net sum;
 - (d) the amount (if any) determined in accordance with paragraph (2)(d) shall be added to the amounts relating to the 6 month period which includes the date that the transfer payment was received;
 - (e) the amounts relating to each 6 month period shall accrue interest at the rate of 1½% compounded at each half-yearly rest which falls in the period from the start of the following 6 month period up to and including the date that the member ceases to be an employee;
 - (f) if the member ceases to be an employee on a date other than a half-yearly rest, the amounts relating to each 6 month period (other than the 6 month period in which the member ceases to be an employee), together with compound interest accrued under sub-paragraph (e), shall accrue further interest calculated as –
 - (i) 1½% multiplied by the number of days after the last half-yearly rest prior to the member ceasing to be an employee, up to and including the date the member ceased to be an employee (subject to a maximum of 182½ days), and
 - (ii) the amount obtained under clause (i) divided by 182½ days.

PART 5

BENEFITS IN RELATION TO DECEASED MEMBERS

If member dies before normal retiring age

23 Death of member before normal retiring age

- (1) If a member dies before normal retiring age after completing less than 2 years' qualifying service the only benefit payable shall be a lump sum payable under Article 27(3).
- (2) If a member dies before normal retiring age after completing 2 or more, but less than 5, years' qualifying service, there shall be payable the benefits determined in accordance with Articles 24, 25, 26 and 27(3).

- (3) If a member dies before normal retiring age after completing 5 years' or more qualifying service, there shall be payable the benefits determined in accordance with Articles 24, 25, 26 and 27(1).

24 Death of member before normal retiring age – where spouse is left

- (1) If a member dies before normal retiring age and is survived by a spouse, a pension shall be payable to the spouse.
- (2) Subject to Article 41(10) to (13), the annual rate of the pension payable under paragraph (1) shall be one half of the pension which the member would have received if the member had continued in service and had retired at normal retiring age without making an election under Article 33, 35 or 36.
- (3) For the purpose of calculating the annual rate of a pension for the purposes of paragraph (2) –
 - (a) the member's salary shall be treated as remaining unaltered from the date of the member's death to normal retiring age (subject to Article 4(2), which shall be deemed to apply);
 - (b) the extent (if any) to which the member worked part-time hours immediately before the date of the member's death shall be treated as remaining unaltered from the date of the member's death to the date the member would have attained normal retiring age; and
 - (c) a member whose hours have, to the satisfaction of the Management Board, been reduced or discontinued owing to ill-health or injury shall be deemed for the purpose of sub-paragraph (b) to have worked the hours which the member would otherwise have worked (but for the reduction or discontinuance) as certified by the employer.

25 Death of member before normal retiring age – where no spouse is left but there are dependants left

- (1) If a member dies before normal retiring age and is not survived by a spouse, a pension shall be payable to any person who satisfies the Management Board that the person is a dependant of that member.
- (2) If there is only one dependant, the annual rate of a pension payable to the dependant under paragraph (1) shall be a sum equal to a spouse's pension calculated under Article 24.
- (3) If there is more than one dependant, a sum equal to the spouse's pension calculated under Article 24 shall be divided into 2 equal parts and –
 - (a) the first part shall be divided equally among the dependants; and
 - (b) the second part shall be paid to one or more of the dependants, as the Management Board thinks fit, in the proportions that the Management Board thinks fit.
- (4) The Management Board may vary the allocation of the second part referred to in paragraph (3)(b).

- (5) If there are more than one dependants and one of them dies, the amount payable to any other dependant shall be increased accordingly.

26 Death of member before normal retiring age – where there are children left

- (1) Subject to paragraphs (2) and (3), if a member who dies is survived by –
- (a) not more than 2 children, there shall be payable annually to the spouse of the member in respect of each child, a pension equal to one half of a spouse's pension calculated under Article 24; or
 - (b) more than 2 children, there shall be payable annually to the spouse of the member in respect of each child, a pension equal to a spouse's pension calculated under Article 24 divided by the number of children.
- (2) If a child in respect of whom a pension is payable under paragraph (1) ceases to receive a pension or has his or her pension temporarily suspended under paragraph (4)(a), the amount payable to any other such child shall be increased accordingly.
- (3) If the Management Board is satisfied that a child in respect of whom a pension is payable under paragraph (1) is in the care of or is being maintained by some person or authority other than the spouse, the Management Board may at its absolute discretion pay the pension payable under this paragraph to that other person or authority instead of to the spouse.
- (4) For the purposes of paragraph (3) –
- (a) if the child is not for the time being receiving full-time education but the Management Board, having considered the evidence provided by or on behalf of the child, is satisfied that the child is expected to resume or receive full-time education in the future, the Management Board may temporarily suspend payment of the pension payable in respect of the child;
 - (b) a decision made under sub-paragraph (a) may be varied in the light of further evidence;
 - (c) if the Management Board temporarily suspends payment under sub-paragraph (a), then on resumption of payment the pension shall be subject to any increases which would have applied had it not been suspended, and the amount payable to any other child shall be decreased accordingly; and
 - (d) the Management Board may from time to time request, in respect of a child who has attained the age of 16 years, further evidence regarding the child's full-time education, and if the evidence is not supplied or is not in the opinion of the Management Board satisfactory, the pension payable in respect of the child may be withheld.
- (5) If no pension is being paid under Article 24 or 25, any pension payable under paragraph (1) shall be doubled.

27 Death of member before normal retiring age – lump sums

- (1) Subject to paragraph (5), if a member who has completed 5 or more years qualifying service dies, a lump sum shall be paid to one or more of the lump sum recipients in the proportions that the Management Board shall determine.
- (2) The amount of the lump sum for the purposes of paragraph (1) shall be an amount equal to twice the annual salary the member was receiving at the date of the member's death (subject to Article 4(2), which shall be deemed to apply).
- (3) Subject to paragraph (5), if a member who has not completed 5 years' qualifying service dies, a lump sum shall be paid to one or more of the lump sum recipients in the proportions determined by the Management Board.
- (4) The amount of the lump sum for the purposes of paragraph (3) shall be an amount equal to $\frac{2}{5}$ ths of the annual salary the member was receiving at the date of the member's death (subject to Article 4(2), which shall be deemed to apply) for each completed year, and pro rata for completed days, of qualifying service.
- (5) The Management Board may determine in any particular case that the lump sum payable to a member under that paragraph shall not be paid or shall only partially be paid.
- (6) Subject to paragraph (7), if, in the period of 12 months immediately before the member's death, the member received a pensionable allowance giving rise to added years under Article 41, annual salary for the purpose of paragraphs (2) and (4) shall mean the sum of –
 - (a) the member's annual salary excluding that pensionable allowance; and
 - (b) the actual amount of that pensionable allowance which the member received in the period of 12 months immediately before the member's death.
- (7) For the purposes of paragraph (6) if the Management Board is satisfied that a member whose annual salary or pensionable allowance has been reduced or discontinued owing to ill-health or injury the member shall be deemed, for the purpose of this Article, to have received the salary or allowance which the member would otherwise have received (but for the reduction or discontinuance) as certified by the employer.
- (8) For the purposes of paragraph (6), if the member was admitted to the scheme 12 months or less before he or she died, the amount of pensionable allowance shall be calculated as the annual equivalent of the actual amount of pensionable allowance which the member received between the date the member was admitted and the date of the member's death.
- (9) Where a member to whom paragraph (1) or (3) applies is taken to remain a member under Article 10(1), the reference in paragraph (2) or (4) to the annual salary the member was receiving at the date of the member's death shall be construed –

- (a) if the member continued to contribute in accordance with Article 10(2), as the member's annual salary as determined under Article 10(2); or
- (b) if the member did not so contribute, as the annual salary the member was receiving immediately before being absent from duty.

If member dies after normal retiring age

28 Death of member after normal retiring age but before becoming pensioner, if surviving spouse is left

- (1) If –
 - (a) a member dies after normal retiring age and before becoming a pensioner; and
 - (b) the member is survived by a spouse,a pension shall be payable to the spouse.
- (2) The pension payable under paragraph (1) shall be payable at the annual rate of one half of the pension that the member would have received if the member had retired on the day immediately before the member's death (subject to Article 4(2), which shall be deemed to apply) without making an election under Article 33, 35 or 36.

29 Death of member after normal retiring age but before becoming pensioner, where no spouse, but dependants, are left

- (1) If –
 - (a) a member dies after normal retiring age and before becoming a pensioner; and
 - (b) the member is not survived by a spouse,a pension shall be payable to any person who satisfies the Management Board that the person is a dependant.
- (2) If there is only one dependant, the annual rate of a pension payable to the dependant under paragraph (1) shall be a sum equal to a spouse's pension calculated under Article 28(2).
- (3) If there is more than one dependant, a sum equal to a spouse's pension calculated under Article 28(2) shall be divided into 2 equal parts and –
 - (a) the first part shall be divided equally among the dependants; and
 - (b) the second part shall be paid to one or more of the dependants, as the Management Board thinks fit, in the proportions that the Management Board thinks fit.
- (4) The Management Board may vary the allocation of the second part referred to in paragraph (3)(b).
- (5) If there are more than one dependants and one of them dies, the amount payable to any other dependant shall be increased accordingly.

- (6) A pension shall be payable to a child or children of the same amount in the same circumstances (but ignoring the qualification period) as are set out in Article 26.
- (7) Subject to paragraph (9), a lump sum shall be paid to one or more of the lump sum recipients in the proportions that the Management Board shall determine.
- (8) The lump sum for the purposes of paragraph (7) shall be an amount equal to twice the annual salary the member was receiving at the date of the member's death (subject to Article 4(2), which shall be deemed to apply).
- (9) Despite paragraph (7), the Management Board may determine in any particular case that the lump sum is paid only partially or not at all.
- (10) Subject to paragraph (11), if in the period of 12 months immediately before the member's death the member received a pensionable allowance giving rise to added years under Article 41, annual salary for the purpose of paragraph (8) shall mean the sum of –
 - (a) the member's annual salary excluding that pensionable allowance; and
 - (b) the actual amount of that pensionable allowance which the member received in the period of 12 months immediately before the member's death.
- (11) For the purposes of paragraph (10), a member whose annual salary or pensionable allowance has, to the satisfaction of the Management Board, been reduced or discontinued owing to ill-health or injury shall be deemed, for the purpose of this Article, to have received the salary or allowance which the member would otherwise have received (but for the reduction or discontinuance) as certified by the employer.

If pensioner dies

30 Death of a pensioner – where spouse is left

- (1) On the death of a pensioner, benefits shall only be payable as set out in this Article and Article 31.
- (2) If a pensioner who receives a pension by virtue of Article 15, 16 or 20 dies and is survived by a spouse, a pension shall be payable to the spouse.
- (3) Paragraph (2) is subject to Article 41(10) to (13).
- (4) Despite paragraph (1), no benefit shall be payable under this Article if the marriage relevant to paragraph (2) commenced after the member reached normal retiring age.
- (5) The pension referred to in paragraph (2) shall be payable at the annual rate of one half of the pension which the pensioner would have been receiving if the pensioner had not –
 - (a) exchanged any pension for a lump sum under Article 33;
 - (b) surrendered any pension under Article 35; or
 - (c) adjusted any pension under Article 36.

- (6) If a pensioner who receives a pension by virtue of Article 17 dies and is survived by a spouse, a pension shall be payable to the spouse.
- (7) Paragraph (6) is subject to Article 41(10) to (13).
- (8) Despite paragraph (6), no benefit shall be payable under this Article if the marriage relevant to paragraph (6) commenced after the member reached normal retiring age.
- (9) The pension referred to in paragraph (6) shall be payable at the annual rate of one half of the pension which the pensioner would have been receiving if –
 - (a) the pensioner had continued in service and had retired at normal retiring age;
 - (b) the pensioner's salary from the date of the pensioner's actual retirement to that date remained unaltered (subject to Article 4(2), which shall be deemed to apply); and
 - (c) any election had not been made under Article 33, 35 or 36.
- (10) The amount determined in accordance with paragraph (9) shall be further increased by the proportion that the pensioner's pension as increased under Article 23 of the Administration Order bears to the pension the pensioner was receiving before the increase.

31 Death of a pensioner – where no spouse is left but child or dependants are left

- (1) If the pensioner dies and is not survived by a spouse, a pension shall be payable to any person who satisfies the Management Board that he or she is a dependant of the pensioner.
- (2) If there is only one dependant of a pensioner, the annual rate of a pension payable to the dependant under paragraph (1) shall be a sum equal to –
 - (a) if the pensioner was receiving a pension by virtue of Article 15, 16 or 20, a spouse's pension calculated under Article 30(5); or
 - (b) if the pensioner was receiving a pension by virtue of Article 17, a spouse's pension calculated under Article 30(9).
- (3) If there is more than one dependant of a pensioner, a sum equal to –
 - (a) if the pensioner was receiving a pension by virtue of Article 15, 16 or 20, a spouse's pension calculated under Article 30(5); or
 - (b) if the pensioner was receiving a pension by virtue of Article 17, a spouse's pension calculated under Article 30(9),shall be divided into 2 equal parts and –
 - (i) the first part shall be divided equally among the dependants; and
 - (ii) the second part shall be paid to one or more of the dependants, as the Management Board thinks fit, in the proportions that the Management Board thinks fit.
- (4) The Management Board may vary the allocation of the second part referred to in paragraph (3)(ii).

- (5) If there are more than one dependants and one of them dies, the amount payable to any other dependant shall be increased accordingly.
- (6) There shall be payable to a child or children of a deferred pensioner who dies a pension of the same amount and in the same circumstances as are set out in Article 26.
- (7) Despite paragraph (1), no benefit shall be payable under this Article if, in the opinion of the Management Board, the dependency contemplated by paragraph (1) commenced after the member reached normal retiring age.

32 Death of a deferred pensioner

- (1) On the death of a deferred pensioner, benefits shall be payable as set out in this Article.
- (2) If a deferred pensioner who dies is survived by a spouse, a pension shall be payable to the spouse.
- (3) The pension referred to in paragraph (2) shall be payable at the annual rate of half of the deferred pension to which the deferred pensioner was entitled, including only the increases made under Article 23 of the Administration Order to the date of the pensioner's death.
- (4) The pension referred to in paragraph (2) shall be increased subject to the provisions of Article 23 of the Administration Order.
- (5) If the deferred pensioner who dies is not survived by a spouse, a pension shall be payable to any person who satisfies the Management Board that the person is a dependant of the deferred pensioner.
- (6) If there is only one dependant, the annual rate of a pension payable to the dependant under paragraph (4) shall be a sum equal to a spouse's pension for the purposes of paragraph (2).
- (7) If there is more than one dependant, a sum equal to a spouse's pension calculated for the purposes of paragraph (2) shall be divided into 2 equal parts and –
 - (a) the first part shall be divided equally among the dependants; and
 - (b) the second part shall be paid to one or more of the dependants, as the Management Board thinks fit, in the proportions that the Management Board thinks fit.
- (8) The Management Board may vary the allocation of the second part referred to in paragraph (7)(b).
- (9) If there are more than one dependants and one of them dies, the amount payable to any other dependant shall be increased accordingly.
- (10) There shall be payable to a child or children of a deferred pensioner who dies a pension of the same amount and in the same circumstances as are set out in Article 26.

PART 6**ALTERATION OF HOW AND WHEN BENEFITS TAKEN****33 Conversion of pension to lump sum (“commutation”)**

- (1) A member or deferred pensioner entitled to a pension under the scheme may within the 6 months before his or her pension becomes payable elect to exchange up to one-quarter of the amount of his or her pension for a lump sum payment.
- (2) If a member or a deferred person makes an election under paragraph (1), when the pension becomes payable, for each one pound of the pension exchanged the sum to be paid shall be £13 and 50p.
- (3) The amount of pension already exchanged may not be varied.

34 Conversion of very small pension to lump sum (“conversion of trivial pension”)

- (1) The Management Board may, in its absolute discretion, commute for a lump sum payment determined by the Management Board acting on the advice of the Actuary, and pay as a lump sum to a person –
 - (a) any pension which, when it becomes payable to a person, is a Trivial Pension; and
 - (b) any Trivial Pension contingently payable on the death of the person.
- (2) If the Management Board commutes a pension of a person under paragraph (1) each person entitled or contingently entitled to the pension which has been commuted shall have no further claim on the scheme.
- (3) For the purpose of this Article, “Trivial Pension” means a pension of not more than £104 a year or, if a greater amount is specified by the Comptroller of Income Tax, a pension of not more than the greater amount.

35 Taking of lesser pension so surviving dependant will receive more pension (“allocation”)

- (1) A member or deferred pensioner entitled to a pension under the scheme may elect to surrender part of his or her pension in exchange for a pension to be paid on his or her death to a dependant, nominated by him or her, should that dependant survive him or her.
- (2) An election under paragraph (1) may only be made with the consent of the Management Board.
- (3) An election under paragraph (1) may only be made within 6 months before the member or deferred pensioner’s pension becomes payable.
- (4) An election shall be made in the form and manner that the Management Board requires.

- (5) The Actuary shall determine –
 - (a) the terms on which a pension shall become payable to a nominated dependant in accordance with an election under paragraph (1); and
 - (b) the appropriate adjustment to the amount and terms applicable to any benefit which may after the election become payable in respect of the member or deferred pensioner.
- (6) The terms and appropriate adjustments under paragraph (5) shall be determined by the Actuary on the basis that there shall be no actuarial cost to the Fund.
- (7) The member or deferred pensioner may be required to provide evidence of his or her health satisfactory to the Management Board before making the election.
- (8) If the member or deferred pensioner elects to nominate more than one dependant, a separate part of his or her pension shall be exchanged in respect of each nominated dependant in accordance with this Article.
- (9) Each election shall take effect only on survival of both the nominated dependant and the member or deferred pensioner to the date on which the member's or deferred pensioner's reduced pension becomes payable.
- (10) The total amount of pension potentially payable to all the nominated dependants, when added to any pension contingently payable under Article 30(2) or (6) or 31(1), shall not be more than the total amount of pension to which the member or deferred pensioner is entitled after all of the separate surrenders have taken place but before exchanging any pension for a lump sum under Article 33.

36 Adjustment where person entitled to old age pension

- (1) This paragraph applies to a member or deferred pensioner entitled to a pension under the scheme who is also prospectively entitled to an old age pension payable under the Social Security (Jersey) Law 1974.
- (2) Subject to paragraph (3), a person to whom paragraph (1) applies may elect to adjust his or her pension in order to receive –
 - (a) a higher pension from the scheme before the date that the old age pension becomes payable to him or her; and
 - (b) a lower pension from the scheme after the date that the old age pension becomes payable to him or her.
- (3) An election under paragraph (2) may only be made with the consent of the Management Board.
- (4) An election under paragraph (2) may only be made within 6 months before the member or deferred pensioner's pension becomes payable.
- (5) An election shall be made in the form and manner that the Management Board requires.
- (6) An election under paragraph (2) shall be subject to the following conditions –
 - (a) the amounts of pension payable from the scheme before and after the date that the old age pension becomes payable (taking into

- account, amongst other things, increases in accordance with Article 23 of the Administration Order) shall be determined by the Actuary on the basis of no actuarial cost to the fund;
- (b) the member or deferred pensioner shall only be able to elect to adjust the pension which remains after first exchanging any pension for a lump sum under Article 33;
 - (c) the lower pension payable with effect from the date that the old age pension becomes payable shall be increased during the period that the higher pension is payable in accordance with Article 23 of the Administration Order as if the lower pension was a deferred pension;
 - (d) the difference between the annual rates of the higher and lower pensions (excluding any increases under Article 23 of the Administration Order) shall not be more than the maximum possible annual basic rate of old age pension which could be paid to any individual under the Social Security (Jersey) Law 1974 at the date of commencement of the higher pension;
 - (e) the member or deferred pensioner may, before the adjustment of his or her pension, be required to provide evidence of health satisfactory to the Management Board.

PART 7

INCREASES OF PENSIONS (OTHER THAN BECAUSE OF INCREASE IN COST OF LIVING)

Augmentation

37 Increase of pension by employer agreeing to make larger contributions (“augmentation”)

- (1) The Management Board shall, at the request of the employer, award an augmentation in respect of an employee or former employee in accordance with this Article.
- (2) The Management Board shall, at the request of the employer, award an augmentation in respect of a former employee if the Management Board is satisfied that –
 - (a) the request is the result of an agreement between the employer and the employer’s employees; and
 - (b) the agreement applies retrospectively, and applies to some or all of the employer’s former employees.
- (3) An augmentation shall consist of any combination, as determined by the employer, of –
 - (a) a period of notional pensionable service;
 - (b) a period of notional qualifying service; or

- (c) the non-application of the reduction mentioned in Article 16(2) or 20(8), as the case may be.
- (4) If augmentation awarded under this Article is to include a period of notional qualifying service the employer shall request the augmentation at the time the benefits arising from the augmentation become payable.
- (5) If augmentation is awarded under this Article, the employer shall pay to the scheme the additional contributions that the Management Board, after receiving the advice of the Actuary, determines is equal to the value of the benefits awarded.
- (6) The additional contributions shall be paid in full by the time the benefits arising from the augmentation become payable and may consist of –
 - (a) a single cash payment to the scheme;
 - (b) a series of cash payments to the scheme over a period; or
 - (c) a combination of sub-paragraphs (a) and (b),as determined by the Management Board after receiving the advice of the Actuary.
- (7) An augmentation may not be awarded under this Article more than 12 months after the employee was admitted to the scheme or became a re-admitted member within the meaning of Article 8.
- (8) The Minister may, in any particular case, extend the period mentioned in paragraph (7).
- (9) An augmentation may not be awarded under this Article in any case where the total benefits that would result would be more than any limits imposed by the Comptroller of Income Tax.
- (10) The Management Board shall direct the Actuary at least once in any period of 12 months to certify to the Management Board the additional cost to the scheme of the operation of this Article, calculated as the aggregate of the additional contributions required under paragraphs (5) and (6).

Pensionable allowances

38 Pensionable allowances

- (1) Subject to this Article, the employer may from time to time declare to be a pensionable allowance any payment or allowance which is routinely paid to a member in addition to the member's basic salary or wage, but is not –
 - (a) an overtime payment;
 - (b) any emolument of a temporary nature; or
 - (c) a payment in respect of untaken leave.
- (2) A declaration under paragraph (1) may only be made with the consent of the Management Board and the Minister, after the Minister has consulted the Actuary.
- (3) A declaration under paragraph (1) shall –

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- (a) define the payment or allowance which is being declared pensionable;
 - (b) specify the date from which it is to be effective;
 - (c) specify whether or not the payment or allowance gives rise to added years of pensionable service under Article 41;
 - (d) specify whether or not any payment or allowance, received by a member or former member before the effective date of the declaration, shall count towards the computation of benefits payable under this Order; and
 - (e) subject to paragraph (5), specify whether or not by virtue of the declaration a former member shall be entitled to additional payments in respect of benefits paid before the effective date of the declaration.
- (4) Paragraph (5) applies if in accordance with paragraph (3)(d) the employer's declaration under paragraph (1) specifies that the pensionable allowance received by a member or former member before the effective date of the declaration shall count towards the computation of benefits payable under this Order.
- (5) If this paragraph applies –
- (a) the Actuary shall determine and advise the Management Board and the Minister of the sum total for all members and former members of the value of the additional benefits arising from the pensionable allowance paid before the effective date of the declaration, including the value of any additional payments under paragraph (3)(e) in respect of benefits;
 - (b) additional employers' contributions shall be payable and additional contributions shall also be payable by those members or former members who receive improved benefits as a result of the declaration;
 - (c) the value of the additional contributions under sub-paragraph (b) shall be equal to the value of the additional benefits arising as determined under sub-paragraph (a);
 - (d) the additional contributions payable under sub-paragraph (b) may consist of –
 - (i) a single cash payment to the scheme,
 - (ii) a series of cash payments to the scheme 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) that the Minister may determine in consultation with the employer and the Management Board; and
 - (e) the additional contributions payable under sub-paragraph (b) shall be made without the need for an amendment to this Order.
- (6) The additional contributions referred to in paragraph (5)(b) shall be payable by the persons referred to in that paragraph in the proportions that the Minister, after consulting the employer and the Management Board, and having regard to the advice of the Actuary, shall decide.

- (7) If by virtue of a declaration under paragraph (1) –
- (a) a former member is entitled to additional payments under paragraph (3)(e) in respect of benefits;
 - (b) one or more of the additional payments are delayed by more than one month after the dates on which they are due; and
 - (c) the delay is not the fault of the former member,
- each additional payment which is so delayed shall be increased with interest at the Hong Kong and Shanghai Banking Corporation Base Rate from the effective date of the declaration (or from the date on which it was due to be paid, if that date is later) up to and including the actual date of payment.
- (8) Contributions payable by a member under Article 11 –
- (a) if they are due before the effective date of the declaration of a pensionable allowance under paragraph (1), shall be based on the member's salary excluding that pensionable allowance; and
 - (b) if they are due on or after the effective date of the declaration of a pensionable allowance under paragraph (1), shall be based on the member's salary including that pensionable allowance.
- (9) Subject to Article 39, contributions payable by employers under Article 14 –
- (a) if they are due before the effective date of the declaration of a pensionable allowance under paragraph (1), shall be based on members' salaries excluding that pensionable allowance; and
 - (b) if they are due on or after the effective date of the declaration of a pensionable allowance under paragraph (1), shall be based on members' salaries including that pensionable allowance.

39 Adjustment after declaration under Article 38

- (1) At the first review of the scheme carried out in accordance with Article 3(12) of the Law or Article 16 of the Administration Order on or after the effective date of a declaration under Article 38(1), the Actuary shall make a calculation in accordance with paragraph (2).
- (2) The calculation shall be the adjustment (if any) to the employers' contribution rate that may be required from the date of the review as a result of the additional benefits arising from the pensionable allowances received by members or former members on or after the effective date of the declaration.
- (3) Any proposals which the Minister submits to the States for disposing of the surplus, or as the case may be, for making good the deficiency, shall take into account any adjustment to the employers' contribution rate under paragraph (2).
- (4) If –
- (a) the Management Board and the Minister have not agreed on proposals; or
 - (b) neither a surplus nor a deficiency is disclosed,

the adjustment to the employers' contribution rate shall, after the further period of 3 months to which Articles 18(8) and 19(5) of the Administration Order refer has elapsed, be applied retrospectively from the date of the review without the need for amendments to this Order.

40 Revocation of pensionable allowance

- (1) The employer may revoke a declaration of a pensionable allowance under Article 38 by giving the Management Board and the Minister at least 6 months' notice of the employer's intention to do so.
- (2) If the Management Board receives notice of the intention to revoke a pensionable allowance under paragraph (1) it shall determine a method of dealing equitably with members' past service entitlements in respect of the pensionable allowance received before the proposed date of revocation.
- (3) The Management Board shall make its determination under paragraph (2) in consultation with the employer and the Minister and having regard to the advice of the Actuary.
- (4) If the pensionable allowance gives rise to added years of pensionable service under Article 41, the method to which paragraph (2) of this Article refers may involve, amongst other things, the cancellation of part or all of the added years of pensionable service credited under Article 41.
- (5) If the pensionable allowance does not give rise to added years of pensionable service under Article 41, the method to which paragraph (2) of this Article refers may involve, amongst other things, the provision of an appropriate number of added years of pensionable service.
- (6) The number of added years of pensionable service determined under paragraph (5) shall be deemed to be added years credited under Article 41 for the purposes of this Order.
- (7) The effective date of revocation of a declaration of a pensionable allowance shall be –
 - (a) 9 months after the employer gives notice; or
 - (b) 3 months after the Management Board has determined the method of dealing with members' past service entitlements,whichever is later.

41 Added years in respect of a pensionable allowance

- (1) If a member or former member has received a pensionable allowance giving rise to added years of pensionable service under this Article, the number of the added years to be credited to the member shall be determined in accordance with this Article.
- (2) If the employer has declared that the pensionable allowance received by the individual concerned before the effective date of the declaration shall count towards the computation of benefits, the number of added years of pensionable service in respect of the period before the effective date shall be determined by the employer.

- (3) The employer shall make his or her determination under paragraph (2), with the consent of the Minister after the employer has consulted the Management Board and the Actuary.
- (4) For each calendar year during which the individual concerned is a member, the number of added years of pensionable service for the purposes of paragraph (2) shall be determined in accordance with the formula $\frac{A \times B}{C}$, where –
- (a) “A” is the number of days during the year when the individual was a member (excluding any days before the effective date of the declaration and, if it has been revoked, after the effective date of its revocation);
 - (b) “B” is the total pensionable allowance giving rise to added years which was received by the member during the year (excluding the pensionable allowance received before the effective date of the declaration and, if it has been revoked, after the effective date of its revocation); and
 - (c) subject to paragraph (7), “C” is the total salary received by the member during the year (excluding B and excluding any salary received before the effective date of the declaration and, if it has been revoked, after the effective date of its revocation).
- (5) The number of added years of pensionable service for the purposes of paragraph (2) shall exclude the calendar years before the effective date of the declaration and, if the declaration has been revoked, shall exclude the calendar years after the effective date of revocation of the declaration.
- (6) At the time the member ceases to be a member of the scheme, the total number of added years of pensionable service to be credited to the individual shall be the sum of –
- (a) the added years determined under paragraph (4)(a); and
 - (b) the added years determined in respect of each calendar year under paragraph (4)(b).
- (7) In the case of a member who was a part-time employee at any time during the year, C shall be subject to an adjustment, determined by the Actuary after consulting the employer, having regard, amongst other things, to the proportion of full-time hours worked by the member.
- (8) If –
- (a) pensionable service is to be enhanced under Article 18; and
 - (b) the individual received, in the year immediately before the date on which the individual ceased to be a member of the scheme, a pensionable allowance giving rise to added years of pensionable service under this Article,
- a further period of added years shall be calculated in accordance with the formula in paragraph (9).
- (9) The formula shall be $A \times B$, where –
- (a) “A” is the number of added years of pensionable service credited under this Article in respect of the year immediately before the date the individual ceased to be a member of the scheme; and

- (b) "B" is the relevant additional period in the Table in Article 18, and, for the individual concerned, the period so calculated shall be added to the relevant additional period in that Table for the purpose of determining the enhancement of pensionable service.
- (10) If –
- (a) there is to be calculated under Article 18(3) or (9), 24(2) or 30(2) or (6) a pension or period of pensionable service which would have applied to an individual if the individual had continued in service until normal retiring age; and
- (b) the individual had received, in the year immediately before the date the individual ceased to be a member of the scheme, a pensionable allowance giving rise to added years of pensionable service under this Article,
- an assumption shall be made in accordance with paragraph (11) for the purpose of the calculation.
- (11) For the purposes of paragraph (10), it shall be assumed that the number of added years of pensionable service credited under this Article in respect of the year immediately before the date on which the individual ceased to be a member of the scheme would also have been credited in respect of each year after the individual ceased to be a member, up to and including the date of the individual's normal retiring age.
- (12) For the purposes of paragraph (11), the credit in respect of a part year shall count proportionately.
- (13) A member whose pensionable allowance or salary has, to the satisfaction of the Management Board, been reduced or discontinued because of ill-health or injury shall be deemed for the purpose of calculating added years under this Article to have received the allowance or salary which the member would otherwise have received (but for the reduction or discontinuance) as certified by the employer.

PART 8

MISCELLANEOUS PROVISIONS

Voluntary early retirement

42 Voluntary early retirement

- (1) The Minister, or an employer with the consent of the Minister, may offer voluntary early retirement to any member of the scheme.
- (2) To be eligible for voluntary early retirement a member shall –
- (a) be at least 55 years of age (unless the 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 Article 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 or the employer having certified that the retirement is desirable for that purpose; and
 - (d) be eligible for a deferred pension under Article 20.
- (3) A member who takes voluntary early retirement under this Article shall be entitled to receive a benefit in accordance with the provisions of this Article.
- (4) A member who takes voluntary early retirement under this Article shall –
- (a) on leaving employment on the agreed date; and
 - (b) until 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 in accordance with paragraph (5).
- (5) The annual rate of a payment to which paragraph (4) relates shall be an amount that is equal to the amount of the annual pension entitlement calculated under Article 22 as increased –
- (a) 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
 - (b) year by year in accordance with the provisions of Article 23 of the Administration Order as if it were a pension in payment.
- (6) When a member to whom this Article applies reaches the age at which the deferred pension becomes payable –
- (a) Articles 20, 33, 35 and 36 shall apply; and
 - (b) the annual pension entitlement shall be increased to take account of any additional credit for pensionable service granted by the employer and shall be increased year by year in accordance with Article 23 of the Administration Order, as mentioned in paragraph (5).
- (7) If a deferred pensioner to whom this Article applies dies before the date on which the deferred pension becomes payable, Article 32 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 (5).

43 Certification by Actuary of cost of voluntary retirement

- (1) The Actuary shall once a year certify to the Management Board the additional cost to the scheme of the operation of Article 42.

- (2) The Actuary shall calculate the additional cost to the scheme of the operation of Article 42 as the difference between –
 - (a) the value of the actual benefits granted in respect of each member to whom this Article applies; and
 - (b) the value of the accrued liabilities in respect of that member.
- (3) The calculation shall be 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).
- (4) The calculation shall –
 - (a) ignore any additional credit for pensionable service granted by the employer as mentioned in Article 42(6)(b); and
 - (b) take into account, amongst other things, 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.
- (5) The Management Board shall notify an employer of the whole of the additional cost certified by the Actuary in accordance with this Article in relation to a member who was an employee of the employer.
- (6) An employer shall, on notification by the Management Board under paragraph (5), pay into the fund the whole of the additional cost certified by the Actuary in accordance with this Article.

Other matters

44 Bankruptcy and non-assignment of benefits

- (1) If a member becomes *en désastre* or bankrupt or does or attempts to do any act or thing not permitted by this Order, whereby the member during the member's lifetime, or the member's personal representatives after the member's death, shall be divested of the member's interest, or any part of the member's interest, in the benefits of the scheme, paragraph (2) applies.
- (2) If this paragraph applies –
 - (a) all rights and benefits defined by this Order in respect of the member shall vest in the Management Board; and
 - (b) all amounts which would otherwise be due to the member shall be applied for the benefit of the member and the member's dependants.
- (3) No payment under paragraph (2) by the Management Board shall be made directly or indirectly to or for the benefit of any assignee.

45 Part-time employees

- (1) Despite any other provision of this Order, in the case of a member who is or has at any time been a part-time employee, the final pensionable salary, average salary and pensionable service of the employee shall be determined by the Actuary after consulting the employer.

- (2) In making a determination under paragraph (1), the Actuary shall have regard to, amongst other things –
 - (a) the contributions paid by and in respect of the member;
 - (b) the salary paid to the member whilst a part-time employee; and
 - (c) the proportion of full-time hours worked by the member.

46 Persons incapable of acting

- (1) This paragraph applies to a person –
 - (a) who is a member, deferred pensioner or pensioner to whom a benefit is payable under this Order by virtue of his or her participation in the scheme; and
 - (b) who is, in the opinion of the Management Board, suffering from any physical or other incapacity rendering him or her unable to manage his or her affairs or to give a proper receipt of a benefit.
- (2) If paragraph (1) applies to a person, the Management Board may, for the purpose of enabling to be applied for the person's benefit the benefit payable to the person, pay the benefit, at the Management Board's discretion, to any of the person's relatives or dependants or to any institution.
- (3) If a person or institution receives a benefit under paragraph (2) the Management Board shall be completely discharged for the benefit paid and shall be under no liability to see to the application of the benefit.

47 Production of evidence and information

- (1) A member shall be bound to produce the evidence and information, satisfactory to the Management Board, relating to age, marriage, health or otherwise that it may require for the purposes of the scheme.
- (2) The Management Board may make –
 - (a) membership of the scheme; and
 - (b) the payment of benefit under the scheme to any person,conditional upon production by that person of the evidence or information that the Management Board may reasonably require.
- (3) If any sum is payable to an executor or administrator there shall first be produced to the Management Board proof that the person is the executor or administrator.
- (4) If there is no executor or administrator, and any sums payable by the Management Board to an executor or administrator are not more than a total of £5,000 (or a higher amount that the Minister for Treasury and Resources may, by instrument in writing, direct) the Management Board may pay the sum to the person whom it is satisfied is entitled to be the executor or administrator.
- (5) A receipt given by a person to whom a sum of money is paid under paragraph (4) shall be a valid discharge as though it had been given by the executor or administrator.

PART 9

CONCLUDING PROVISIONS

48 Citation and commencement

- (1) This Order may be cited as the Teachers' Superannuation (New Members) (Jersey) Order 2007.
- (2) This Order shall come into force the day after it is made.

SENATOR F.H. WALKER

Chief Minister

¹ *chapter 16.850*
² *R&O.36/2007*