

# Jersey pension reforms – focus on international transfers

Update prepared by Ed Devenport (Partner, Jersey) and Carly McIver (Associate, Jersey)  
November 2016

---

**// As part of the Jersey pension reforms which came into effect on 1 January 2015, a more flexible pension transfer process for members of approved Jersey schemes was introduced.**

**Subject to certain conditions, it is possible to transfer a pension from an approved Jersey scheme to a non-Jersey pension scheme and vice versa.**

**This update considers the position of transfers from approved Jersey schemes to overseas arrangements.**

---

The relaxation on the rules concerning international transfers in connection with approved Jersey schemes marked a significant change to the Jersey pension transfer regime. The guidance notes issued by the Comptroller of Taxes (the **guidance notes**), which were updated in September 2015, provide more information on the framework governing international and partial transfers as described below.

This update considers the position of transfers from approved Jersey schemes to overseas arrangements.

## **Who may request a transfer?**

Subject to certain conditions being met, the tax rules now permit:

- members; and
- following a member's death, that member's dependant,

to elect to transfer the whole of the fund value from their approved Jersey schemes to a scheme established outside of Jersey.

## **What are the conditions attached to such transfers?**

There are three key criteria to be met before an international transfer may proceed:

1. the written approval of the Comptroller must be obtained prior to the proposed transfer;
2. the receiving arrangement must be an 'equivalent scheme'; and
3. the non-residency requirement is met.

These points are explored in turn below.

## **What information is required to obtain the Comptroller's written approval?**

The following information must be provided to obtain the Comptroller's written approval:

- the member's full name and permanent residential address;
- the transferring fund's value;
- the full name of the scheme that the fund is being transferred from;
- the full name of the receiving scheme;

- the jurisdiction in which the receiving scheme is established; and
- evidence that the scheme is an 'equivalent scheme' (see below).

Where the election to transfer is being made by the dependant of a deceased member, the dependant's details should be provided in place of the member.

Note that the written approval of the Comptroller must be obtained prior to the proposed transfer being made. Such approval should not be sought retrospectively.

### **What is an 'equivalent scheme'?**

An overseas arrangement will be considered an equivalent scheme if, in the Comptroller's opinion, the scheme has characteristics which are consistent with the characteristics of an approved Jersey scheme.

The guidance notes do not provide a more precise definition; however, a list of factors which may assist the Comptroller in determining an arrangement's 'equivalency' is included. Such information which may be required to support the equivalent status test includes (but is not limited to) evidence that the receiving arrangement:

- restricts access to benefits until at least 50 years of age;
- requires benefits to commence prior to 75 years of age;
- does not allow for more than 30 per cent of the fund value to be commuted as a lump sum; and
- provides that the majority of the fund value will be used to pay an income for life.

Additionally, whilst the receiving arrangement should be approved by the local tax authority, evidence of such approval will not suffice the equivalency test alone.

### **What is the 'non-residency requirement'?**

At the time of the election to transfer to an overseas arrangement, a member must not have been resident in Jersey for a period of three calendar years. Where the election to transfer is being made by the dependant of a deceased member, the member's dependant must not have been resident in Jersey for three calendar years.

The Comptroller will take a strict approach in respect of the three years of non-residency condition and evidence to demonstrate that the member or their dependant (as appropriate) has been resident outside of the island for three years will be required.

Schemes are expected to be alive to this issue and must seek evidence of residency from the relevant individual before the transfer can go ahead.

### **How do the international transfer rules interact with existing scheme rules of approved Jersey schemes?**

This will depend on how each scheme's rules are drafted. If the scheme rules restrict transfers to other approved Jersey schemes only, an amendment will be required before international transfers out may be permitted.

### **Are schemes required to permit international transfers out?**

No. The flexibilities introduced by the Jersey pension reforms, including the ability to transfer funds to non-Jersey arrangements, are optional.

### **Can approved Jersey schemes accept transfers in from overseas arrangements?**

Members and dependants of deceased members may elect to transfer the whole of the fund value from a non-Jersey scheme into an approved Jersey scheme.

On receipt of an international transfer into a scheme, trustees of the receiving schemes are required to notify the Comptroller in writing of the transfer. The notice must include prescribed information relating to the person making the election, the transferring scheme and the fund value received.

### **What action is now required?**

Schemes may wish to consider the extent to which international transfers out should be permitted. Any schemes wishing to permit such transfers will need to review the rules to make such amendments as required to reflect their intention.

Mourant Ozannes would be happy to assist with any such review of schemes and advise on meeting the information requirements prior to such transfers taking place.

---

## Contacts



**Edward Devenport**  
**Partner, Jersey**  
+44 1534 676 366  
edward.devenport@mourantozannes.com



**Carly McIver**  
**Associate, Jersey**  
+44 1534 676 064  
carly.mciver@mourantozannes.com

This update is only intended to give a summary and general overview of the subject matter. It is not intended to be comprehensive and does not constitute, and should not be taken to be, legal advice. If you would like legal advice or further information on any issue raised by this update, please get in touch with one of your usual Mourant Ozannes contacts.  
© 2016 MOURANT OZANNES ALL RIGHTS RESERVED