

2001 No. 1481

PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Amendment)
Regulations 2001**

<i>Made - - - -</i>	<i>17th April 2001</i>
<i>Laid before Parliament</i>	<i>17th April 2001</i>
<i>Coming into force</i>	
<i>Except regulation 17(f)</i>	<i>1st May 2001</i>
<i>Regulation 17(f)</i>	<i>1st September 2001</i>

The Secretary of State, in exercise of the powers conferred on him by sections 7 and 12 of the Superannuation Act 1972(a) and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate, hereby makes the following regulations:—

Citation and commencement

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations 2001.

(2) Subject to paragraph (3), these Regulations shall come into force on 1st May 2001 but—

- (a) regulations 5, 6, 7, 9, 16(d) and 17(b) shall have effect from 1st April 1998;
- (b) regulations 4 and 16(e) shall have effect from 15th December 1999;
- (c) regulation 8 shall have effect from 13th January 2000;
- (d) regulation 17(d) shall have effect from 17th July 2000;
- (e) regulations 3(a), 17(a) and 18(a)(ii) and (iii) shall have effect from 1st December 2000;
- (f) regulations 3(b), 11 to 15, 16(a), (b), (c), (f), (g), 17(c) and (e) and 18 (except subparagraphs (ii) and (iii) of paragraph (a)) shall have effect from 1st April 2001.

(3) Regulation 17(f) shall come into force on 1st September 2001.

Amendment of Regulations

2. The Local Government Pension Scheme Regulations 1997(b) shall be amended in accordance with regulations 3 to 18 of these Regulations.

(a) 1972 c.11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c.7).

(b) S.I. 1997/1612, amended by S.I. 1997/1613, 1998/1238, 2118, 1999/1212, 3438, 2000/1005, 1164, 2826, 3025, 2001/770.

General eligibility for membership: employees of Scheme employers etc.

3. In regulation 4(6)(a)—
 - (a) after sub-paragraph (m), add—

“(n) the Greater London Magistrates’ Courts Authority”(b); and
 - (b) after sub-paragraph (n), add—

“(o) the Children and Family Court Advisory and Support Service”(c).

Periods of membership

4. In regulation 9, after paragraph (6), add—

“(7) Periods of membership before and after any unpaid period of maternity absence or period of parental leave in respect of which the member does not pay any contributions shall be treated as continuous.”.

Obligatory contributions during absence

5. In regulation 17, after paragraph (3), insert—

“(3A) If a person who is a member or has applied to be a member—

 - (a) goes on ordinary maternity leave, and
 - (b) is not entitled to receive pay (including statutory maternity pay payable to her under the Social Security Contributions and Benefits Act 1992(d)) for all or any part of that period of leave,

for these Regulations she shall be treated as if she had paid contributions under paragraph (2) for the unpaid period of that ordinary maternity leave and on the pay that she would have received during that period but for her absence.”.

Optional contributions during absences

6. In regulation 18(2)(a), for “goes on maternity leave” substitute “is on maternity leave, other than ordinary maternity leave,”.

Final pay

7. In regulation 21, after paragraph (6), insert—

“(6A) For the purposes of this Chapter, a member’s pay for any period of maternity absence during the final pay period in respect of which she pays or is treated as paying contributions is the pay she would have received had she not been absent.”.

Power of employing authority to increase total membership of new members

8. In regulation 53, after paragraph (7) add—

“(8) But paragraph (7) shall not apply in the case of a member who leaves an employment with an admission body.”.

Employer’s contributions

9. In regulation 79, after paragraph (5) add—

“(6) Where an employee—

 - (a) is treated, under regulation 17(3A), as if she had paid contributions, or
 - (b) has paid contributions during a period of maternity absence,

the pay on which the common percentage is calculated is the pay the employee would have received if she had not been absent.”.

(a) Regulation 4(6) was amended by S.I. 1998/1238, regulation 3, S.I. 1999/1212, regulation 3, and S.I. 2000/1164, regulation 3.

(b) The Greater London Magistrates’ Courts Authority was established under section 30A of the Justices of the Peace Act 1997 (c.55), which section was inserted by the Access to Justice Act 1999 (c.22), section 83.

(c) The Children and Family Court Advisory and Support Service was established by the Criminal Justice and Court Services Act 2000 (c.43), section 11.

(d) 1992 c.4.

First instance decisions

10. In regulation 97, in the paragraph added after paragraph (13) by the Local Government Pension Scheme (Pension Sharing on Divorce) Regulations 2000(a), for “(14)” substitute “(13A)”.

Eligibility for active membership: employees etc. of non-Scheme employers

11. In regulation 127(6) at the end add “or, since 1st April 2001, by the Greater London Magistrates’ Courts Authority”.

Further cases of eligibility: non-employees

12. In regulation 131(2)(d), for “(outside the inner London area)” substitute “other than a justices’ clerk for the Greater London Magistrates’ Courts Authority who is not within a class of employees specified by that Authority in a relevant resolution (within the meaning of regulation 4(5))”.

Members employed by magistrates’ courts committees

13. In regulation 133, for paragraphs (1) and (2) substitute—

“(1) These Regulations apply with the modifications specified in paragraphs (3) to (11) to a justices’ clerk—

- (a) employed by a magistrates’ courts committee, other than the Greater London Magistrates’ Courts Authority, or
- (b) employed by the Greater London Magistrates’ Courts Authority and within a class of employees specified by that Authority in a relevant resolution (within the meaning of regulation 4(5)).

(2) These Regulations apply with the modifications specified in paragraphs (5) to (11) to any other person as described in sub-paragraph (a) or (b) of paragraph (1).”.

Certain employees of the committee of magistrates for the inner London area

14. Regulation 134 is revoked.

Employees of National Probation Service local boards

15. For regulation 136, substitute—

“Employees of National Probation Service local boards

136.—(1) These Regulations apply to a person employed by a National Probation Service local board with the following modifications.

(2) In the application of regulation 11 (length of period of membership) to part-time service as a probation officer, instead of the fraction mentioned in paragraph (4) of that regulation, the appropriate fraction for each year of part-time service is the fraction—

- (a) of which the numerator is the pay received by him in the year, and
- (b) the denominator is the mean of the annual salary scale applicable to probation officers in respect of that year.

(3) For any year of part-time service before 1st April 1965, paragraph (2) applies as if the mean of the annual salary scale applicable to probation officers in respect of that year was £620 for male officers and £555 for female officers.

(a) S.I. 2000/3025.

(4) Separate calculations must be made for each year of part-time service (and the calculations must be adjusted appropriately for periods of part-time service of less than a year).

(5) In the application of regulation 28(5) (enhanced membership periods in cases of ill-health) the appropriate fraction is the fraction specified in paragraph (2).”.

Schedule 1: Interpretation

16. In Schedule 1 (interpretation)—

- (a) in the definition of “City of London employing body”, delete paragraphs (b) and (c);
- (b) for the definitions of “Justices’ clerk (inner London area)” and “Justices’ clerk (outside the inner London area)”, substitute—

“ “Justices’ clerk” means a person who, under sections 40 or 42 of the Justices of the Peace Act 1997**(a)** has been or is deemed to have been appointed by a magistrates’ courts committee to be a justices’ clerk and includes any person who was so appointed as both a justices’ clerk and a justices’ chief executive;”;

- (c) after the definition of “Money purchase benefits”, insert—

“ “National Probation Service local board” means a board established under section 4 of the Criminal Justice and Court Services Act 2000**(b)**;”;

- (d) after the definition “Official pension”, insert—

“ “Ordinary maternity leave” means, for any period prior to 22nd August 1996, leave under section 33 of the Employment Protection Consolidation Act 1978**(c)** and for any period commencing on or after 22nd August 1996, leave under section 71 of the Employment Rights Act 1996**(d)**;”;

- (e) after the definition “Ordinary maternity leave”, insert—

“ “Parental leave” means leave under regulation 13(1) of the Maternity and Parental Leave etc. Regulations 1999**(e)**;”;

- (f) delete the definition of “Probation committee”;

- (g) for the definition of “Probation officer” substitute

“ “Probation officer” means a member of staff of a National Probation Service local board appointed to exercise the functions of an officer of the board but not any individual exercising the functions of an officer of a local board by virtue of section 5(2) of the Criminal Justice and Court Services Act 2000”.

Scheme employers

17. In Schedule 2—

- (a) after “A magistrates’ courts committee” add “other than the Greater London Magistrates’ Courts Authority”;
- (b) for “a police authority within the meaning of the Police Act 1964” substitute “A police authority within the meaning of the Police Act 1996**(f)**”;
- (c) for “A probation committee” substitute “A National Probation Service local board”;
- (d) after “An Education Action Forum within the meaning of section 11 of the School Standards and Framework Act 1998**(g)**”, add “The National College for School Leadership”**(h)**;
- (e) after “The National College for School Leadership”, add “The Standards Board for England”**(i)**; and

(a) 1997 c.25; section 40 was amended by the Access to Justice Act 1999 (c.22), section 87.

(b) 2000 c.43.

(c) 1978 c.44; section 33 was substituted by the Trade Union Reform and Employment Rights Act 1993 (c.9), section 23.

(d) 1996 c.18; section 71 was substituted by the Employment Relations Act 1999 (c.26), section 7 and Part I of Schedule 4.

(e) S.I. 1999/3312.

(f) 1996 c.16.

(g) 1998 c.31.

(h) The College was incorporated on 14th June 2000 as a limited company under company number 4014904.

(i) The Standards Board for England was established under the Local Government Act 2000 (c.22), section 57.

- (f) after “The Standards Board for England”, add “a city academy within the meaning of the Education Act 1996(a)”.

Schedule 5: Appropriate funds

18. In Schedule 5—

(a) in paragraph 1 of the Notes to the Table in Part I—

(i) in sub-paragraph (4)(b), for paragraph (i) substitute—

“(i) the National Probation Service local board for the area comprising the Metropolitan Police District and the City of London Police Area”;

(ii) in sub-paragraph (5)(e)(b), delete “or”; and

(iii) after sub-paragraph (5)(f), add—

“, or

(g) the Greater London Magistrates’ Courts Authority”; and

(b) in the Table in Part II, add at the end—

“6. Employee of the Children and Family Court Advisory and Support Service	Fund maintained by West Yorkshire County Council
7. Employee of the Standards Board for England	Fund maintained by Tameside District Council
8. Employee of the National Probation Service local board for the Thames Valley Area	Fund maintained by Windsor and Maidenhead Council
9. Employee of the National Probation Service local board for the South Wales area	Fund maintained by Swansea County Council
10. Employee of the National Probation Service local board for the Dyfed Powys area	Fund maintained by Carmarthenshire Council”

Signed by authority of the Secretary of State

Beverley Hughes
Parliamentary Under Secretary of State,
Department of the Environment, Transport
and the Regions

17th April 2001

(a) 1996 c.56, section 482(3); section 3 was amended by the Learning and Skills Act 2000 (c.21), section 130(1), (4), (7).
(b) Paragraph (5) was added by S.I. 2000/1164, regulation 9(d).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Pension Scheme Regulations 1997 (“the principal Regulations”) which comprise the Local Government Pension Scheme (“the Scheme”). Some of the regulations take effect on various dates before the Regulations come into force (as set out in regulation 1((2)). Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have retrospective effect.

Certain regulations add new bodies as resolution bodies or Scheme employers. The new resolution bodies, added by regulation 3, are the Greater London Magistrates’ Courts Authority and the Children and Family Court Advisory and Support Service. The new Scheme employers, added by regulation 17, are the National College for School Leadership, the Standards Board for England and city academies.

Regulation 4 amends regulation 9 of the principal Regulations (periods of membership) to ensure that periods of membership before and after unpaid periods of maternity absence or parental leave are treated as continuous.

Regulations 5, 6, 7 and 9 make amendments to regulations 17, 18, 21 and 79 respectively of the principal Regulations to ensure that periods of unpaid statutory ordinary maternity leave are treated as periods of membership.

Regulation 8 amends regulation 53 of the principal Regulations (power of employing authority to increase total membership of new members) to provide that a member who leaves employment with an admission body is entitled to count the additional period of membership even where he does not immediately become entitled to a pension on leaving the employment.

Regulation 10 corrects a numbering error in an earlier amendment to the principal Regulations.

Regulations 11 to 14 make amendments consequential upon the reorganisation of the magistrates’ courts committees and the creation of the Greater London Magistrates’ Courts Authority effected by the Access to Justice Act 1999.

Regulation 15 is in connection with employees of National Probation Service local boards. It substitutes a new regulation for regulation 136 of the principal Regulations to reflect changes in the structure of the probation service effected by the Criminal Justice and Court Services Act 2000.

Regulation 16 amends Schedule 1 to the principal Regulations (interpretation) and makes amendments consequential on the changes referred to above.

Regulation 17 makes some consequential amendments to Schedule 2 to the principal Regulations (Scheme employers) and adds the names of the new Scheme employers referred to above.

Regulation 18 amends Schedule 5 to the principal Regulations (Appropriate funds) which sets out which fund is the appropriate fund for various bodies participating in the Scheme.

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