

**2003 No. 2249**

**PENSIONS, ENGLAND AND WALES**

**The Local Government Pension Scheme (Amendment)  
Regulations 2003**

|                               |                           |
|-------------------------------|---------------------------|
| <i>Made</i> - - - -           | <i>1st September 2003</i> |
| <i>Laid before Parliament</i> | <i>8th September 2003</i> |
| <i>Coming into force</i> - -  | <i>1st October 2003</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, commencement and extent**

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations 2003.

(2) These Regulations shall come into force on 1st October 2003, but regulation 2 shall have effect from 8th December 2002.

(3) In these Regulations, “the principal Regulations” means the Local Government Pension Scheme Regulations 1997(b).

(4) These Regulations extend only to England and Wales(c).

**Paternity and adoption**

2. The principal Regulations shall be amended in accordance with the Schedule to these Regulations.

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

(b) S.I. 1997/1612; relevant amending instruments are S.I. 2001/1481, 2003/1022.

(c) The Secretary of State’s functions under section 7 of the Superannuation Act 1972 in so far as they were exercisable in relation to Scotland were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (1998 c. 46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).

**Councillor members**

3. In paragraph 4 of Schedule 8(a) to the principal Regulations, in paragraph (6) of the substituted regulation 13 (meaning of “pay”), for the words “the coming into force of these Regulations” substitute the date “1st May 2003”.

Signed by the authority of the Secretary of State

1st September 2003

*Phil Hope*  
Parliamentary Under Secretary of State,  
Office of the Deputy Prime Minister

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(a) Schedule 8 was added to the Local Government Pension Scheme Regulations 1997 by S.I. 2003/1022.

## SCHEDULE

### Regulation 2

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| <i>Regulations</i>          | <i>Amendment</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9(7), 18(2)                 | After each occurrence of “maternity” insert “or adoption”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 17(2), 21(6A), 55(9), 79(6) | After each occurrence of “maternity” insert “, paternity or adoption”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 17(3A)                      | After both occurrences of “ordinary maternity leave” insert “, ordinary adoption leave or paternity leave” and after “statutory maternity” insert “, paternity or adoption”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Schedule 1                  | (1) Before “Ordinary maternity leave” insert ““Ordinary adoption leave” means leave under section 75A of the Employment Rights Act 1996(a);”;<br>(2) Before “Payment in lieu of contributions” insert ““Paternity leave” means leave under regulations 4 or 8 of the Paternity and Adoption Leave Regulations 2002(b);”; and<br>(3) For the words ““Period of maternity absence”” to “return to work” substitute ““Period of maternity, paternity or adoption absence” means any period throughout which a member is absent from duty because he is exercising his right to take maternity, paternity or adoption leave in accordance with sections 71, 73, 75A or 75B(c) of the Employment Rights Act 1996 or regulations 4 or 8 of the Paternity and Adoption Leave Regulations 2002”. |

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(a) 1996 c. 18, as inserted by section 3 of the Employment Act 2002 (2002 c. 22).

(b) S.I. 2002/2788.

(c) Section 75B was inserted by section 3 of the Employment Act 2002.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Local Government Pension Scheme Regulations 1997 (“the principal Regulations”) which constitute the Local Government Pension Scheme (“the Scheme”).

Regulation 2 takes effect from a date before the Regulations come into force. Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have retrospective effect. Regulation 2 amends the principal Regulations so as to take account of the new entitlements to paternity and adoption leave provided for by the Employment Act 2002 that came into force on 8th December 2002. Accordingly, the principal Regulations are amended with effect from that date as follows—

- Regulation 17(2) is amended so that members of the Scheme taking paternity or ordinary adoption leave who are in receipt of pay (including statutory paternity or adoption pay) will be obliged to make contributions to the Scheme on that pay.
- Regulation 17(3A) is amended so that members of the Scheme taking paternity or ordinary adoption leave who are not in receipt of pay will be treated during the paternity or ordinary adoption leave period as if they had paid contributions.
- Regulation 79(6) is amended so that Scheme employers will also have to make contributions to the pension fund on behalf of the member taking paternity or ordinary adoption leave as if they were not absent from work.
- Regulation 18(2) is amended so that those members of the Scheme taking additional adoption leave can opt whether or not to pay contributions during the additional leave period. Under the amended regulation 9(7), if they choose not to pay contributions, then the period of additional leave will not count for membership purposes, although the periods of employment before and after the additional leave will be treated as continuous.
- Regulation 21(6A) is amended so that in calculating final pay, a member’s pay for any period of paternity or adoption leave in respect of which contributions are paid or are treated as being paid will be treated as if the member had paid the contributions that would have been paid had he not been absent.
- Regulation 55(9) is amended so that where a member elects to make an additional contribution, a reduction in pay as a result of periods of paternity or adoption leave taken during the interval at the end of which the additional contribution falls to be paid, will be taken into account when assessing the amount of the additional contribution.
- Consequential amendments are also made to Schedule 1 to define ordinary adoption and paternity leave and period of paternity or adoption absence.

Regulation 3 substitutes the date “1st May 2003” for an incorrect reference to the principal Regulations made in paragraph 4 of Schedule 8 to the principal Regulations. Schedule 8 sets out modifications to the principal Regulations as they apply to members of the Scheme who are such by reason of being councillors of a local authority in England. Schedule 8 was added by the Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003.

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