

LGPC CIRCULAR NO. 104 - OCTOBER 2001

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PART-TIMERS' PENSION RIGHTS - UPDATE

Purpose of the Circular

1. The purpose of this Circular is to update authorities in relation to the current position in respect of the Employment Tribunal part-timers' pension rights cases. This Circular supplements Circulars 94 (February 2001), 96 (March 2001) and 101 (June 2001).

Update

2. Circular 96 stated that the Solicitor to the Scottish Executive had written to the Central Office of the Employment Tribunals in Scotland to request that the Scottish part-timer pension cases should be dealt with on a test case basis (as in England and Wales). We are pleased to report that the request was successful.
3. At the time of issuing Circular 101 it was not known whether, as second respondent in the Employment Tribunal cases, the Secretary of State for Transport, Local Government and the Regions intended to enter a defence of either no disparate impact or objective justification in respect of temporary part-time workers (employed for not more than 3 months) and / or casual employees. Whilst not admitting that their exclusion had a disparate impact on women the Secretary of State has now confirmed that, as with the permanent part-time employees who, prior to 17 August 1993, were contracted to work less than 15 hours per week, he will not be entering a defence.
4. This means that once the test cases have been heard and the stay on the non-test cases is lifted, it will be for each local authority to decide whether, as the first named respondent, they wish to enter a defence in all such cases, even if the Secretary of State, as the second named respondent, does not enter a defence. This is because the Secretary of State cannot instruct

authorities what line to take (no more than can the LGPC) as the cost of any additional employer contributions arising from retrospective access to the LGPS will be for those authorities to meet.

5. The Directions hearing in respect of the two LGPS test cases is scheduled to take place on Wednesday 21 November 2001 at 10.00am at the London Central Office of Employment Tribunals.
6. Local authorities are reminded that, prior to any potential amendments to the LGPS Regulations being made (post the outcome of the test cases), employees who leave and who wish to protect their position should lodge an IT1 claim with the Employment Tribunal. This should be done within 6 months of leaving if they think they may benefit from the House of Lords ruling that access to pension schemes for part-timers may be backdated to, at the earliest, 8 April 1976.

Actions for authorities administering the LGPS

7. Administering authorities may wish to bring the content of this Circular to the attention of other employers in their Fund (other than local authorities to whom this Circular has been sent direct by the Secretariat).

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October 2001

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