
CIRCULAR

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No. 140B – JULY 2003

PART-TIMER PENSION CLAIMS

Purpose of this Circular

1. This Circular follows on from Circulars 138, 140 and 140A (see www.lg-employers.gov.uk/pensions/circulars.html) and provides further information in relation to the part-timer pension claims.

Additional Category of Cases to Accept in England and Wales

2. It has been brought to the attention of the LGPC Part Timer Working Party that there is an additional category of cases that should have been included under paragraph 8 of Circular 140 (cases to accept). These are:
 - D: those employees who were contracted to work less than 15 hours per week for 35 or more weeks per year **and** who increased their contractual hours to 15 or more hours per week on or after 1 April 1987 and before 17 August 1993 **and**
 - opted to join the LGPS on and from the date the contractual hours were increased to 15 or more per week (i.e. the employee opted to join at the first opportunity to do so), **and**
 - have continued to be employed by the same employer, under a stable employment relationship, since the date the contractual hours were increased to 15 or more per week and are still

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employed by that employer¹ (or lodged their ET claim within 6 months of leaving that employer) or have statutorily been transferred to another employer and are still employed by that employer (or lodged their ET claim within 6 months of leaving that employer) – but see paragraph 10 of Circular 140 regarding stayed TUPE transfers, **and**

- the employer accepts there is a full-time comparator of the opposite sex i.e. in the case of a female applicant there is a full-time male employee also employed by her employer whose work was the same as, or broadly similar to, or of equal value with, her work.

Notes:

Such employees will be able to backdate membership of the LGPS for any period of continuous employment with the employer **from** the later of

- 8 April 1976, **or**
- in the case of an officer, the date employment started, **or**
- in the case of a manual worker who started employment before 1 October 1988, 12 months after the date employment commenced, **or**
- in the case of a manual worker who started employment on or after 1 October 1988 and before 1 October 1989, the 1 October 1989, **or**
- in the case of a manual worker who started employment on or after 1 October 1989, the date employment commenced, **or**
- the date the employee attained age 18 if this fell before 1 October 1989, **or**
- the date the employee attained age 16 if this fell on or after 1 October 1989

to the day before the date the contractual hours were increased to 15 or more per week

during which the contractual hours were less than 30 per week and the contractual weeks were less than 35 per year, or the contractual hours were less than 15 per week.

Errata

3. Please note that two of the dates shown against the 17 September 1990 entry in the Brief History of Membership Conditions included with Circular 140A were incorrect. The updated entry is shown below and should replace the 17 September 1990 entry in the table attached to Circular 140A.

17 September 1990

Employers had to notify all employees with part time qualifying service (see entry at 31 March 1988) by 16 September 1991 of the right to buy-back any or all of their qualifying service so that it would count as reckonable service in calculating the amount of their retirement benefits. Those employees who wished to buy-back had to elect to do so within 6 months of being notified by their employer of the right to buy-back. The employee contribution rate for pre 1.4.78. service being bought back was 6% and for post 31.3.78. service being bought back it was 12% of the pay at the "relevant date" (see SI 1990/1709). The employer could agree to meet up to half of the employee contributions on behalf of the employee.

¹ Where an employee varies their contractual hours within the same job or voluntarily changes jobs with the same employer but without a break it will be necessary to determine whether the stable employment relationship has continued. Where the variation or change results in the termination of one employment contract and the start of another employers might take the view that the stable employment relationship has ceased and so the employee would not be able to claim in respect of the service with the employer prior to the variation in hours or change of job unless the ET claim had been lodged within 6 months of that change in hours or job. Employers will need to come to a decision, based on the circumstances of each individual case. If there is disagreement between the appellant and the respondent on this point, it will need to be remitted back to the Employment Tribunal for a decision.

Actions for administering authorities

4. Administering authorities in England and Wales should take **URGENT** action to copy this Circular to employers in their Fund or bring the Circular to the attention of employers by directing them to the Circular on the LGPC website at www.lg-employers.gov.uk/pensions/circulars.html

Terry Edwards
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July 2003

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