

## National Health Service Superannuation Scheme (Scotland)

Addressees as listed below

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Our ref: NHS/01/36

13 March 2014

Dear Colleagues

### **The National Health Service Superannuation Scheme (Scotland) (Miscellaneous Amendments) Regulations 2014**

I attach for your consideration and comment, a copy of the draft regulations which will amend the NHS (Scotland) Superannuation Regulations 2011 (the 1995 section), the NHS (Scotland) Superannuation Regulations 2013 (the 2008 section), The NHS (Scotland) (Injury Benefits) Regulations 1998 and the NHS Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998.

#### Summary of the Changes

These miscellaneous amendments include:

- Amendments to the 1995 Section of the Superannuation Scheme, Injury Benefit Scheme and Additional Voluntary Contributions regulations as a consequence of the consolidation of the 2008 Section regulations in order to update references etc.
- A change to the 1995 and 2008 sections to allow for those opting out of the scheme within 3 months to be treated as having never joined for administrative purposes to allow for refunds of contributions to be dealt with locally within this timescale.
- A cap to be introduced in respect of a member's final salary in the 1995 section for the purposes of calculating pension where final salary is inordinately high. Where the cap is exceeded a charge will be levied against the employer.
- The introduction of an administrative charge and a facility for SPPA to apply interest where employers are late in paying over scheme contributions to SPPA
- Changes to reflect revised HMRC rules from 6 April 2014.
- Other minor amendments to correct previous errors or to provide clarification.

A more detailed explanation of these changes is contained in **Appendix A** of this letter.

## Consultation

To simplify the process you can respond to this consultation online via the following link:  
[http://www.sppa.gov.uk/index.php?option=com\\_wrapper&view=wrapper&Itemid=1500](http://www.sppa.gov.uk/index.php?option=com_wrapper&view=wrapper&Itemid=1500)

Alternatively you may complete the Consultation Response Form provided at **Appendix B** which can be submitted electronically to [nhspensionsreform@scotland.gsi.gov.uk](mailto:nhspensionsreform@scotland.gsi.gov.uk) or by post to the following address:

NHS Pension Scheme (Scotland) Miscellaneous Regulations Consultation  
SPPA Policy  
7 Tweedside Park  
Tweedbank  
Galashiels  
TD1 3TE

A copy of the consultation documentation and online response form is also available on the Agency's website at [www.sppa.gov.uk](http://www.sppa.gov.uk).

### **Responses are requested no later than the closing date of Wednesday 9 April 2014**

The consultation will close at midnight on Wednesday 9 April and we ask that anyone wishing to respond does so by then.

We intend to publish a summary of consultation responses in due course and would like to be able to include any response you make in that summary. However, if you ask us not to publish your response to this consultation we will regard it as confidential, and we will treat it accordingly.

Respondents should also be aware that the SPPA is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and will have to respond appropriately to any relevant request made to the Agency under that Act for information concerning this consultation exercise.

Yours faithfully

**Sharon Liptrott (Mrs)**  
**NHS Policy Manager**

### **Addressees**

HR Directors NHS Boards  
Finance Directors and Payroll managers  
Scottish NHS Pensions Group (SPG)  
UK Injury Benefit Review partners  
SPPA Technical Working Group  
NHS Trade Unions and Professional Organisations  
Scottish General Practitioners Committee  
Institute of Health Service Management  
Scottish Practice Nurse Association



Women's National Committee  
SGHD Directorate of Primary Care  
SGHD Health Workforce Directorate  
SGLD Finance  
NHS Retirement Fellowship  
Home Office, Police and Firemen's Pension Schemes  
Department of Health and Social Services, Northern Ireland  
NHS BSA Pensions Division  
Department for Children, Schools and Family  
Cabinet Office  
Department for Communities and Local Government  
DWP  
GAD  
HM Treasury  
SGLD  
SPPA (Senior Managers, Policy and Technical Team)



## Explanation of Amending Regulations

### **1. Amendments following consolidation of 2008 Section Regulations**

1.1 From 1 July 2013 The NHS Pension Scheme (Scotland) Regulations 2008 (SSI 2008/224) and twelve amending instruments were consolidated into one new set of regulations “The NHS Superannuation Scheme (2008 Section) (Scotland Regulations 2013 (SSI 2013/174)”. As a consequence of this references to the 2008 section in the other scheme regulations were required to be changed. Amending regulation 3 amends the NHS Superannuation Scheme Scotland Regulations 2011, amending regulations 27-29 amend the NHS (Scotland) (Injury Benefits) Regulations 1998 and amending regulations 31-40 amend the NHS Superannuation Scheme (Scotland)(Additional Voluntary Contributions) Regulations in this respect.

### **2. Amendment to time scale for return of contributions on member opt out**

2. 1 Following auto enrolment, It was recognised that the process for employers to turn around contributions to SPPA within the scheme timescale was proving problematic and employers may receive opt out notifications later than the first month currently allowed.

2.2 The Scottish NHS Pensions Group, agreed, that the opt out period of one month in the scheme regulations in which employees are treated as never having joined, would be extended to three months. This allows NHS employers more time to deal with those employees who wish to opt out of the scheme and enable them to make refunds of contributions locally, rather than the member having to contact SPPA directly to apply for their refund of employee contributions.

2.3 These administrative changes were recently implemented and notified to employers in SPPA Circular 2013/09. Amending regulations 4, 18 and 26 insert the change into the regulations with retrospective effect.

### **3. Scottish Minister’s right to determine Final pay for benefits**

3.1 Existing powers in Scheme regulations allowing the Scheme Administrator (on behalf of the Scottish Ministers) to determine final pay for benefits for part-time members where appropriate, will be extended to include the final pay in the 1995 regulations and reckonable pay in the 2008 regulations of whole-time members. Any pay determined excessive will be disregarded when calculating member benefits, and the Scheme contributions on that excess refunded to the employee and the employer.

3.2 When determining whether a member’s pay is inordinately high, SPPA will be required to have regard to the experience of typical NHS employment pay and progression in the ten years prior to retirement for members in similar positions.

3.4 These changes are detailed in amending regulations 5 and 16.

## **4. New Charges for NHS employers in respect of large pay rises for members prior to retirement.**

4.1 For members of the 1995 final salary section of the scheme only, employers will in future be charged an “excess employer contribution” for the cost of pension (but not death) benefits calculated on pensionable pay increased beyond a new pay increase ‘cap’. The cap will be equal to the level of the CPI + 4.5%. The employer charge will apply to increases made above this cap, in one of more of the final three years prior to retirement. The cap will apply only for the purposes of the excess employer contribution, which will be the capital cost of the benefits due to the excess pay, obtained by multiplying the excess benefits by an age-related unisex factor, e.g. 20 for a member aged 60. The member’s pension benefits will NOT be reduced and will continue to be calculated on uncapped pay. Amending regulations 6 and 16 refer.

## **5. Scheme changes to reflect Tax changes**

5.1 The Finance Act 2013 amends the Finance Act 2004 to reduce the Lifetime Allowance Limit (LTA) from the current £1.5m level to £1.25m with effect from 6 April 2014. Transitional measures include two new protection facilities for individuals who would be affected by the new lower limit. These are ‘Fixed Protection 2014’ and ‘Individual Protection 2014’ which work in a similar fashion to existing protections. The fixed protection is currently available and the Individual Protection facility will be introduced by the 2014 Finance Act. Amending regulations 10 and 15 reflect these changes:

## **6. Interest and administration charges on delayed payment of contributions**

6.1 Most employers pay over scheme contributions by the due date but where this does not happen it can cause extra work for the scheme administrators. A number of small additions to the regulations have therefore been made to clarify existing payment responsibilities and due dates. Changes have also been made to allow SPPA to impose an administration charge and to charge interest to the employer in the case of late payment of contributions. Amending Regulations 11, 20 and 25 therefore insert new regulations T11 in the 1995 section and 2.J.10A and 3.J.10A in the 2008 section of the scheme regulations in this respect.

## **7. Clarification of pension information required from Employers**

7.1 Amending regulations 12 and 32 replace regulation U3 of the 1995 regulations and amend regulation 2.J.14 of the 2008 regulations to set out more clearly existing pensions information that employing authorities must send annually to SPPA

## **8. Miscellaneous changes**

8.1 Other amending regulations are to either to provide clarification or correct previous errors.

## CONSULTATION RESPONSE FORM: Consultation on NHS Superannuation Scheme (Scotland) (Miscellaneous Amendments) Regulations 2014

### 1. Name/Organisation

Organisation Name

Title

Surname

Forename

### 2. Postal Address





Postcode	Phone	
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Email
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**3. Permissions** - I am responding as... (please complete either sections (a), (b) and (d) or sections (c) and (d):

**Individual** or **Group/Organisation**

**(a)** Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please state yes or no: \_\_\_\_\_

**(b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please state yes to one of the following:

Yes, make my response, name and address all available .....

or

Yes, make my response available, but not my name and address .....

or

Yes, make my response and name available, but not my address .....

**(c)** The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please state yes or no: .....



(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please state yes or no: .....

## ABOUT YOU

I am responding ...

- as a scheme member
- on behalf of an Employer Organisation
- on behalf of a Trade Union/Staff Association
- other (please specify)

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What is your gender?

- I am female
- I am male

I am employed as...

- an administrator
- a dentist
- a doctor
- a general Practitioner
- a junior doctor
- a manager
- a nurse
- I'm retired
- other (please specify)

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What is your working pattern?

- I work part-time

I work full- time	<input type="checkbox"/>
Not applicable	<input type="checkbox"/>

**Please provide your comments in the space below:**

Please post your response to:

NHS Pension Scheme (Scotland) (Miscellaneous Amendments) Regulations Consultation  
SPPA Policy  
7 Tweedside Park  
Tweedbank  
Galashiels  
TD1 3TE

**The closing date for this consultation is Wednesday 9 April 2014**

