sppa
SCOTTISH PUBLIC PENSIONS AGENCY

Superannuation (Health Service) Circular No 9/2006

7 Tweedside Park
Tweedbank
Galashiels TD1 3TE
http://www.sppa.gov.uk
Telephone: 01896 893???
Fax: 01896 893214
Mary.amos@scotland.gsi.gov.uk

To:

NHS and other participating employers
NHS Trade Unions and Staff Associations

Your ref:
Our ref:
NHS/02/15,NHS/01/08/00, NHS/02/05/00,NHS/04/11/00,NHS/01/01/03

6 July 2006

Dear Sir or Madam

NATIONAL HEALTH SERVICE SUPERANNUATION (SCOTLAND) SCHEME (NHSS(S)S)

This circular contains important information about the following:

1. **The National Health Service (Superannuation Scheme and Additional Voluntary Contributions (Scotland) Amendment Regulations 2006 (SSI 2006 No 307)**
2. **Career Breaks**
3. **Scheme Pensionable Earnings Cap for 2006 - 2007**
4. **Pensions Increase Order**
5. **Returning to NHS Employment in the First Month after Retirement**

1. The National Health Service (Superannuation Scheme and Additional Voluntary Contributions (Scotland) Amendment Regulations 2006

The NHS (Superannuation Scheme and Additional Voluntary Contributions) (Scotland) Amendment Regulations 2006 make changes to the NHS Superannuation (Scotland) Scheme and the NHS Additional Voluntary Contributions (Scotland) Scheme. These amendments ensure compliance with HM Revenue and Customs' pensions tax simplification regime which was introduced by the Finance Act 2004. The new simplified regime replaces the eight existing tax regimes that cover different types of pension schemes and pension saving arrangements. The new regime is based on each person being entitled to a Life Time Allowance (LTA) to which all pension savings in registered pension schemes count and with limits on what can be taken as a tax free lump sum. Individuals with pension savings in more than one scheme or arrangement are responsible for making sure that the LTA is not exceeded. Schemes are permitted to create a benefit structure within the Finance Act 2004 limits, and payments that exceed the prescribed limits are classed as unauthorised payments.

The Finance Act 2004 simplification of legislation governing occupational pension schemes came into effect on 6 April 2006, known as 'A' day. The legislation was in two parts. The first imposed mandatory changes that schemes had to comply with from 'A' Day. The second part included enabling provisions that cover a range of new freedom and flexibilities that scheme could, if they wished introduce into their provisions.

The main mandatory requirements of the Finance Act 2004 necessitating the changes are as follows:

- The requirement for all schemes to adopt a new minimum pension age of 55 by 6 April 2010 or earlier. The amendments introduce the new minimum pension age from 6 April 2010 and provide the maximum protection permitted by the Finance Act 2004 of the current minimum pension age of 50 applying to members existing on 5 April 2006.

- The requirement that a lump sum must be paid to a member before (s)he reaches age 75.

- The restriction of payments of child allowances after age 23 except in limited circumstances.

- The limits on which a trivial pension can be commuted will be increased to come into line with the overriding rules in force with effect from 6 April 2006.

For consistency with ‘A’ Day date for the coming into force of the changes allowed under the Finance Act 2004, the mandatory changes will have retrospective effect from 6 April 2006, as authorised by section 12 of the Superannuation Act 1972.

The amendments also introduce two permissive changes allowed under the Finance Act 2004, in relation to the scheme’s in house Money Purchase Additional Voluntary Contributions (AVC) arrangements. These are to have effect from 30 June 2006 (the date this instrument comes into force) and are as follows:-

- Members of the scheme will be able to make AVCs of up to 100% of their NHS salary, less contributions to other registered pension schemes including the NHS scheme.

- On retirement, members will also be able to take up to 25% of their invested NHS MPAVC funds, as a tax-free ‘pension commencement’ lump sum.

The amendments should be read with the rules in the Finance Act 2004 and the related transitional regulations made under that Act. In particular, the Registered Pension Scheme (Modification of the Rules of Existing Schemes) Regulation 2006 (S.I. 2006/304) have permitted the continuation of an ‘earnings cap’ in the Superannuation Scheme Regulations (regulation 4 of S.I. 2006/364) and there are no amendments removing the relevant earnings cap from regulation C1(2) of the NHS Superannuation Scheme Regulations.

It should be noted that it was primarily intended to allow provisions within these amendments whereby that when a person’s entitlement to a benefit under these Regulations constitutes a relevant benefit accrual he or she may, at the time they apply for benefit, notify the scheme administrator in writing that they wish to waive their rights to that part of it that exceeds the appropriate limit. However, due to a complex legality issue arising the decision was taken to remove this provision referring to the right to waiver with a view to re-inserting it a later date once the legal aspects were resolved. That said, as a result of this late amendment a minor error was made in the new regulation T2A paragraphs (4),(5) and (6) whereby it reads “to the information referred to” in paragraphs 7 and 8. These references to paragraph 7 and 8 should actually read as paragraphs 3 and 4. It is intended that this error will be corrected during the proposed consolidation exercise of the NHS regulations that is currently underway.

A copy of these Amendment Regulations can be accessed via the following link SSI 2006/307. Further copies of the regulations can be purchased from The Stationery Office (ISBN number 0-11-070611-0).

The main changes are summarised above but more detailed information is given in Appendix A, attached. Appendix B, attached constitutes a Notice to Staff and, in accordance with the requirements of the Occupational Pensions Schemes (Disclosure of Information) Regulations 1996, **should be brought to the attention of all employees**.

2. Career Breaks

The Partnership Information Network document Supporting the Work/Life Balance aims to assist the NHS operate a 24 hour, 365 day service whilst supporting staff to balance home life with the demands of work. One of the elements covered within this document relates to Career Breaks.

The purpose of the career break policy is to allow staff an opportunity to leave their employment on a long term basis (normally between one to five years), mainly to undertake further education or to fulfil domestic commitments. A career break should not be allowed for the purpose of taking up alternative employment.

The following information gives guidance to employers on how NHS scheme members' superannuation contributions should be treated whilst they are on a career break. You should note that in all cases SPPA will require written notification of the dates that the Career Break relates to.

Break of 1 year or less

Superannuation contributions whilst on a Career Break for a year or less should be maintained. The contributions should be based on the employee's salary which was in place immediately prior to the member going on the career break and should be deducted from subsequent pay the member receives once returning from the career break. The contributions should then be remitted to the Agency in the usual manner as per the normal payment of any arrears of contributions. Employers' contributions should be calculated on the superannuable salary as denoted above and should also be remitted to the Agency in the normal way.

Break longer than a year

For those employees who take a career break of longer than one year, superannuation will only be deducted in respect of a period of 10 days per annum (or pro-rated period) in which they undertake paid work within their NHS employment – for example, for the purposes of maintaining professional registration. The Agency will require Annual Return information to be submitted each year providing information of actual pensionable service.

Although a career break shall not be regarded as a break in service for NHS continuous service purposes, the break will not itself count as reckonable service for benefit purposes.

It should be noted however that under the scheme rules death lump sum payments are based on the best last 365 days actual pensionable pay in the 3 years prior to death. Members may wish to bear this in mind when agreeing a period for a career break.

Added Years

Contributions should continue to be deducted in respect of any contracts to purchase additional service if the career break is for one year or less. In the case of a year or over the added year contributions should be collected in respect of the 10 days paid employment only and a proportionate credit will be given on that basis.

3. Scheme Pensionable Earnings Cap for Tax Year 2006 – 2007

Those Scheme members, who were previously subject to the HMRC pensionable earnings cap up to 5 April 2006, will continue to be subject to a Scheme pensionable earnings cap. The cap from 6 April 2006 to 5 April 2007 has been set at £108,600.

4. The Pensions Increase (Review) Order

THE PENSIONS INCREASE (REVIEW) ORDER 2006

This note also alerts that the above mentioned Order (SI 2006 No. 741) which provides for the payment of pensions increase resulting from the 2006 Review is now available. A copy of the SI can be accessed using the following link SI 2006/741.

The Increase

1. Increases are payable from 10th April 2006. For pensions which began before 11th April 2005 the increase is 2.7%. For pensions which began on or after 11th April 2005 the increases are as follows:-

Pensions Beginning	Percentage Increase
11th April 2005 to 25th April 2005	2.70%
26th April 2005 to 25th May 2005	2.48%
26th May 2005 to 25th June 2005	2.25%
26th June 2005 to 25th July 2005	2.03%
26th July 2005 to 25th August 2005	1.80%
26th August 2005 to 25th September 2005	1.58%
26th September 2005 to 25th October 2005	1.35%
26th October 2005 to 25th November 2005	1.13%
26th November 2005 to 25th December 2005	0.90%
26th December 2005 to 25th January 2006	0.68%

26th January 2006 to 25th February 2006	0.45%
26th February 2006 to 25th March 2006	0.23%

2. Article 4 of the Order provides for the payment of increases on deferred lump sums which became payable before 10th April 2006 but on or after 11th April 2005. These increases are set out in Annex c to this Circular. Multipliers for "preserved" pensions and lump sums can be accessed on the HM Treasury website on their Public Service Pensions / Pensions Increases page.

5. Returning to NHS Employment in the First Month After Retirement

Employers are reminded that Scheme members (including GPs) who return to NHS employment within one month of taking normal retirement, early retirement or after becoming entitled to a deferred pension, will not have their annual pension suspended if they work 16 hours a week or less. If NHS employment exceeds 16 hours in any week during the first month, the above pensions will be suspended until the employment ends, or reduces to 16 hours per week or less, for a period of one month. Employment outside the NHS does not count towards the 16 hours.

Pension paid early because of ill health or redundancy will not be suspended even if the member works more than 16 hours in the month following retirement. However, the Abatement provisions, if appropriate, will apply.

It should be noted that a minimum of one day's retirement is still required. However this is currently subject to consultation between the Department of Health and the Business Services Authority (formerly NHS pensions) at Fleetwood. Once the outcome of these discussions is known a further note will be issued.

Yours faithfully

Mary Amos

Mary Amos
Policy Manager, NHSS(S)S

NATIONAL HEALTH SERVICE SUPERANNUATION SCHEME (SCOTLAND) – CHANGES TO THE SCHEME

This Appendix describes in more detail the amendments made to the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (as amended) (the 1995 Regulations), by the National Health Service Superannuation Scheme (Scotland) Amendment Regulations 2006 (Scottish Statutory Instrument No 2006/307.

Regulation 1 provides for citation, commencement, effect, interpretation and extent.

Regulation 2 amends regulation A2 of the Superannuation Scheme Regulations (interpretation) by inserting definitions which are needed to give effect to the provisions of the Finance Act 2004.

Regulation 3 amends regulation B6 of the Superannuation Scheme Regulations (opting into the scheme: mis-sold pensions) by amending the definition of "personal pension scheme" to take account of the change in status of such schemes to "registered schemes" for the purposes of the Finance Act 2004.

Regulation 4 amends regulation E2 of the Superannuation Scheme Regulations (early retirement pension (ill-health)) so that any lump sum payment is consistent with the Pension Schemes Act 1993 (c.48) provisions relating to contracting-out and preservation of benefits and the new lump sum rule from the Finance Act 2004. It also amends that regulation so as to provide for the calculation of such a lump sum.

Regulations 5, 6, 7 and 8 respectively amend regulations E3 (early retirement pension (redundancy etc.)), E4 (early retirement pension (employer's consent)), E5 (early retirement pension (with actuarial reduction)) and E6 (preserved pension) of the Superannuation Scheme Regulations so as to refer to those who are to have the normal minimum pension age of 55 or, where provided for under the Finance Act 2004, a lower protected pension age.

Regulation 9 amends regulation E7 of the Superannuation Scheme Regulations (lump sum on retirement) so as to provide that where a member of the scheme has attained the age of 75, he shall no longer be entitled to a lump sum but shall instead have his pension increased in lieu of that lump sum.

Regulation 10 amends regulation E9 of the Superannuation Scheme Regulations (early leavers' entitlement to refund of contributions) so as to provide that a member who becomes entitled to a refund of his contributions shall receive a lump sum less tax at 20 per cent on such part of that sum which does not exceed £10,800 and at 40 per cent on such part of that sum which exceeds that limit.

Regulation 11 amends regulation F2 of the Superannuation Scheme Regulations (lump sum when member dies after pension becomes payable) so as to provide that a member may notify the scheme administrator that he wants a lump sum payable under the regulation to be treated as a pension protection lump sum death benefit in accordance with the provisions of the Finance Act 2004.

Regulation 12 amends regulation H1 of the Superannuation Scheme Regulations (dependent child) so that it refers to a child aged 17 or over but who has not reached the age of 23. It also makes transitional provision for children who may become entitled to a child allowance on or before 6th April 2006 or whose dependency is to be assessed in relation to a person who became entitled to a pension on or before that date.

Regulation 13 amends regulation J1 of the Superannuation Scheme Regulations (allocation of pension by member for benefit of dependent) so as to provide that a member who wishes to allocate part of his pension to another person must do so before the date on which that pension becomes payable to him.

Regulation 14 amends regulation N1 of the Superannuation Scheme Regulations (member's right to transfer accrued rights to benefits to the scheme) so as to provide that a member may, within 12 months of joining the scheme, request the Scottish Ministers to accept a transfer payment in respect of his or her rights under certain other schemes except rights under a free-standing AVC scheme which was established on, or after, 6th April 2006 or which existed prior to that date and became a free-standing AVC scheme for the purposes of the Finance Act 2004.

Regulation 15 inserts a new regulation (regulation T2A (deduction of tax: further provisions)) to the Superannuation Scheme Regulations. New regulation T2A provides, amongst other things, for any lifetime charge under the Finance Act 2004 to be paid by the scheme administrator (to be the Scottish Ministers), and for such a person to notify the scheme administrator of certain matters if he or she wishes to rely on protections provided for under the Finance Act 2004 (i.e. enhanced lifetime allowance protection).

Regulation 16 amends regulation T7 of the Superannuation Scheme Regulations (commutation of trivial pensions) so as to provide that any commutation must be consistent not only with the contracting-out and preservation requirements of the Pension Schemes Act 1993 but also the lump sum and lump sum death benefit rules provided for in the Finance Act 2004.

Regulation 17 amends regulation W15 of the Superannuation Scheme Regulations (commutations: small pensions) so as to provide that any pension credit benefit which is to be commuted has to satisfy the requirements of the Finance Act 2004 in respect of trivial commutation of lump sums.

Regulation 18 amends regulation 2 of the AVC Regulations (interpretation) by inserting definitions of the Finance Act 2004, "lifetime allowance" and "registered pension scheme" so as to give effect in the remainder of the AVC Regulations to the provisions of the Finance Act 2004.

Regulations 19 and 20 respectively amend regulations 3 (making and acceptance of elections) and 6 (circumstances when elections cease to have effect) of the AVC Regulations so as to refer to the correct section of the Finance Act 2004.

Regulation 21 amends regulation 8 of the AVC Regulations (inward transfers) so as to provide that a person who has paid contributions to a registered AVC scheme for the purposes of the Finance Act 2004 can give notice to the Scottish Ministers saying that they wish the Scottish Ministers to accept a transfer from that scheme.

Regulation 22 amends regulation 10 of the AVC Regulations (outward transfers) to omit obsolete references to the Income and Corporation Taxes Act 1988 (c.1) and so that the regulation correctly refers to the Finance Act 2004.

Regulation 23 amends regulation 12 of the AVC Regulations (lump sums on death) so as to provide that a lump sum payable on death cannot exceed the limits set down in the Finance Act 2004.

Regulation 24 amends regulation 13 of the AVC Regulations (benefit limits) to make it clear that any benefits paid under the Regulations are limited by reference to the person's lifetime allowance under the Finance Act 2004.

Regulation 25 amends regulation 14 of the AVC Regulations (repayment of investments in certain cases) so that the regulation refers to the relevant provisions of the Finance Act 2004.

Regulation 26 amends regulation 15 of the AVC Regulations (payments by Secretary of State) to remove outdated references to limits on death benefits applying prior to the Finance Act 2004 and to remove an obsolete statutory reference.

Regulation 27 amends regulation 16 of the AVC Regulations (information) to impose an obligation on a person who wishes to take advantage of an entitlement to an enhanced lifetime allowance in accordance with the Finance Act 2004 to provide the AVC provider with certain information.

Regulation 28 inserts a new regulation (regulation 22: tax) in the AVC Regulations making it clear that benefits payable under the Regulations are paid net of tax due under the Finance Act 2004.

Regulation 29 deletes Schedule 1 to the AVC Regulations (benefit limits) to reflect the fact that the benefit limits are now subject to the Finance Act 2004 (see new regulation 22) and not the limits previously set out in Schedule 1 to the AVC Regulations.

Regulations 30 to 35 have effect from 30th June 2006. Regulation 30 further amends regulation 2 of the AVC Regulations (interpretation) by inserting a definition of "pension commencement lump sum".

Regulation 31 further amends regulation 3 of the AVC Regulations (making and acceptance of elections) so as to provide that an AVC scheme may provide either for an annuity or for both a pension commencement lump sum and an annuity on retirement.

Regulation 32 amends regulation 4 of the AVC Regulations (payment of an amount of additional voluntary contributions) so as to enable a person to make contributions to an AVC scheme which do not exceed 100 per cent of their salary (subject to certain exceptions).

Regulation 33 amends regulation 11 of the AVC Regulations (retirement and dependants' pensions) so as to reflect the fact that investments made under a scheme may be realised to provide not just an annuity but also a pension commencement lump sum and an annuity on retirement.

Regulation 34 further amends regulation 15 of the AVC Regulations (payments by Secretary of State) to provide that AVC investments may be realised and used to purchase either an annuity or a pension commencement lump sum or lump sum death benefit.

Regulation 35 amends Schedule 2 to the AVC Regulations (pension sharing on divorce or nullity of marriage or dissolution or nullity of civil partnership) to provide that an AVC investment may be realised so as to provide a pension commencement lump sum, and to allow for a percentage of the proceeds of any investment specified in a notice of election to be used in that manner.

Scottish Public Pensions Agency
6 July 2006

SCOTTISH PUBLIC PENSIONS AGENCY

THIS NOTICE GIVES EMPLOYEES IMPORTANT INFORMATION ABOUT CHANGES TO THE NHS SUPERANNUATION SCHEME (SCOTLAND) REGULATIONS 2006

The Regulations that set out the NHS Superannuation Scheme in Scotland have been amended by the National Health Service Superannuation Scheme (Scotland) Amendment Regulations 2006 which came into force on 30 June 2006.

The NHS (Superannuation Scheme and Additional Voluntary Contributions) (Scotland) Amendment Regulations 2006 make changes to the NHS Superannuation (Scotland) Scheme and the NHS Additional Voluntary Contributions (Scotland) Scheme. These amendments ensure compliance with HM Revenue and Customs' pensions tax simplification regime which was introduced by the Finance Act 2004. The new simplified regime replaces the eight existing tax regimes that cover different types of pension schemes and pension saving arrangements. The new regime is based on each person being entitled to a Life Time Allowance (LTA) to which all pension savings in registered pension schemes count and with limits on what can be taken as a tax free lump sum. Individuals with pension savings in more than one scheme or arrangement are responsible for making sure that the LTA is not exceeded. Schemes are permitted to create a benefit structure within the Finance Act 2004 limits, and payments that exceed the prescribed limits are classed as unauthorised payments.

The Finance Act 2004 simplification of legislation governing occupational pension schemes came into effect on 6 April 2006, known as 'A' day. The legislation was in two parts. The first imposed mandatory changes that schemes had to comply with from 'A' Day. The second part included enabling provisions that cover a range of new freedom and flexibilities that scheme could, if they wished introduce into their provisions.

The main mandatory requirements of the Finance Act 2004 necessitating the changes are as follows:

- The requirement for all schemes to adopt a new minimum pension age of 55 by 6 April 2010 or earlier. The amendments introduce the new minimum pension age from 6 April 2010 and provide the maximum protection permitted by the Finance Act 2004 of the current minimum pension age of 50 applying to members existing on 5 April 2006.

- The requirement that a lump sum must be paid to a member before he reaches age 75.

- The restriction of payments of child allowances after age 23 except in limited circumstances.

- The limits on which a trivial pension can be commuted will be increased to come into line with the overriding rules in force with effect from 6 April 2006.

For consistency with 'A' Day date for the coming into force of the changes allowed under the Finance Act 2004, the mandatory changes will have retrospective effect from 6 April 2006, as authorised by section 12 of the Superannuation Act 1972.

The amendments also introduce two permissive changes allowed under the Finance Act 2004, in relation to the scheme's in house Money Purchase Additional Voluntary Contributions (AVC) arrangements. These are to have effect from 30 June 2006 (the date this instrument comes into force) and are as follows:-

- Members of the scheme will be able to make AVCs of up to 100% of their NHS salary, less contributions to other registered pension schemes including the NHS scheme.

- On retirement, members will also be able to take up to 25% of their invested NHS MPAVC funds, as a tax-free 'pension commencement' lump sum.

The amendments should be read with the rules in the Finance Act 2004 and the related transitional regulations made under that Act. In particular, the Registered Pension Scheme (Modification of the Rules of Existing Schemes) Regulation 2006 (S.I. 2006/304) have permitted the continuation of an 'earnings cap' in the Superannuation Scheme Regulations (regulation 4 of S.I. 2006/364) and there are no amendments removing the relevant earnings cap from regulation C1(2) of the NHS Superannuation Scheme Regulations.

A full copy of the Superannuation (Health Circular) No 9/2006 is available from the SPPA website at www.sppa.gov.uk.

APPENDIX C

INCREASES IN LUMP SUMS

A. Deferred lump sums which become payable on or after 10 April 2006.

These are eligible for the same increase as pensions which begin on the same date as the lump sum begins (See Multiplier table)

B. Deferred lump sums which became payable in the period 11 April 2005 to 10 April 2006.

(i) If the lump sum began before 11 April 2005, it may have been eligible for increases under the Pensions (Increase) Act 1971. These should have been paid with the lump sum at the time it became payable. A further increase is payable on 10 April 2006 according to the table below.

(ii) If the lump sum began on or after 11 April 2005 an increase is payable on 10 April 2006 according to the table below

In calculating the length of period, count complete months starting with the beginning date (or 11 April 2005 if later), and then count the remaining days, excluding the payable date itself –

eg 25 May to 7 July is 1 month (25 May to 24 June) and 12 days (25 June to 6 July).

Length of Period					**Percentage Increase**	
	16 days	to	1 month	15 days		0.23
1 month	16 days	to	2 months	15 days		0.45
2 months	16 days	to	3 months	15 days		0.68
3 months	16 days	to	4 months	15 days		0.90
4 months	16 days	to	5 months	15 days		1.13
5 months	16 days	to	6 months	15 days		1.35
6 months	16 days	to	7 months	15 days		1.58
7 months	16 days	to	8 months	15 days		1.80
8 months	16 days	to	9 months	15 days		2.03
9 months	16 days	to	10 months	15 days		2.25
10 months	16 days	to	11 months	15 days		2.48
11 months	16 days	to	12 months	15 days		2.70