

The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2019

Consultation Report

1.1 The Scottish Public Pensions Agency (SPPA) is grateful for the number of responses made to the consultation on The NHS Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2019. The purpose of this report is to provide stakeholders with a summary of feedback received to SPPA's consultation which ran from 20 December 2018 to 18 January 2019 on the above draft regulations. This document also sets out SPPA's reply to stakeholder comments and proposed next steps.

2 Executive Summary

2.1 The NHS Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2019 will make amendments to The NHS Superannuation Scheme (Scotland) Regulations 2011, The NHS Superannuation Scheme (2008 Section) (Scotland) Regulations 2013 and The NHS Pension Scheme (Scotland) Regulations 2015. The primary aims of these Regulations are to introduce an increased employer contribution rate from 1 April 2019 and to make changes to the salary/earnings bands of the employee contribution tables in respect of the scheme year 2019/20.

2.2 All unfunded public service schemes are required to undertake quadrennial scheme valuations. The process and financial assumptions used to undertake a scheme valuation are set out in the Public Service Pensions Act 2013 and HM Treasury Directions. The latest valuation, based on scheme data as at March 2016, has confirmed an increase in the employer contribution rate from 14.9% to 20.9% and that rate, as required by the Directions, has to be applied for the period 1 April 2019 to 31 March 2023. The Directions were recently amended to reflect both the change in the discount rate used in the scheme valuation and the Chief Secretary to the Treasury's written statement on 30 January to the Westminster Parliament. <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statements/>

2.3 The discount rate is the notional investment return on contribution income and a change in the rate from CPI+2.8% to CPI+2.4% was announced in the UK Government's October 2018 Budget statement. The valuation assesses what each scheme needs now in order to meet future liabilities. The lower the discount rate, the higher the level of funding needed now to meet those future liabilities and that feeds through to employer costs. Hence, a reduction in the discount rate feeds through to higher employer contributions.

2.4 Following the closure of this consultation the Chief Secretary to the Treasury's written statement of 30 January 2019 confirmed that the employer cost cap rectification of the unfunded public service schemes should pause. The written statement also confirmed that the proposed increase in the scheme employer contribution rate to 20.9% should continue given the potential costs that would be faced by schemes resulting from the McCloud/Sargeant Court of Appeal decision on 20 December 2018 (Case number A2/2018/0635). The Court of Appeal found that the transitional protections applied as part of the 2015 reforms discriminated on the grounds of age although the UK Government has sought leave to appeal that decision.

2.5 The changes to salary/earnings bands of the employee contribution tables in respect of the scheme year 2019/20 will ensure that the tiering of pay bands remains in line with annual increases in members' pay. It was agreed during scheme reform discussions with both scheme employer and scheme member representatives that, although member contribution rates would not change, the pay/earnings bands in each tier would increase each year in line with national NHS pay awards in Scotland.

2.6 Prior to the issue of the consultation the impact of the scheme valuation both on the employer contribution rate and the employer cost cap was discussed by the Scheme Advisory Board (SAB). The SAB provides advice to the Scottish Ministers on the desirability of changes to the design of the scheme, the implication of other policy issues and is made up of employer and member representatives from across the service. Its advice includes providing remedies to rectify a provisional breach of the employer cost cap and in doing so had reached agreement on a number of proposals which were due to be formally considered by the Scottish Ministers. However following the Chief Secretary to the Treasury's written statement of 30 January 2019 employer cost cap rectification work in all unfunded public service schemes has paused until the outcome of the McCloud/Sargeant case is known.

3 Analysis and Reporting

3.1 The consultation received 1,768 responses. The vast majority of replies were received from GPs, on behalf of GP practices or from GP member organisations. Third sector employers were also represented amongst the responses.

3.2 While there were a large number of responses to the consultation, almost all of the comments centred around common themes which are summarised below:

- The negative impact of employer contribution increase on the stability of General Practice in Scotland and its ability to deliver services
- The negative impact of employer contribution increase on charity organisations who employ NHS Scotland staff and their ability to deliver services
- The negative impact of employer contribution increase on the ongoing viability of GP practices

- The negative impact of employer contribution increase on GP income
- The negative impact of employer contribution increase on the recruitment and retention of GPs
- The negative impact of employer contribution increase on the number of GPs leaving the pension scheme or retiring early
- The negative impact of employer contribution increase on continued employment of GP practice staff
- The timing and length of the consultation and its suitability in order to allow all interested stakeholders to submit a response
- The perceived impact on the value of the pension scheme and the increased number of GPs leaving the pension scheme as a result of Lifetime and Annual pension tax allowances

3.3 In addition to these common themes detailed above, the BMA Scotland also raised the specific issue of moving to a flatter employee contribution structure and questioned the fiscal justification for the current tiered contribution structure in the CARE scheme. This issue is out of scope of the consultation but is one that is currently being considered by the NHS Scheme Advisory Board (SAB).

Summary of consultation respondents

Scheme Member	1068
Employer Organisation	508
Trade Union/Staff Association	6
Other	186

Employment status of those who responded

Administrator	25
Doctor	85
General Practitioner	1335
Junior Doctor	6
Manager	222
Nurse	12
Retired	1
Other	82

4 SPPA's Response

4.1 Unfortunately, the timeframe for the consultation on the regulations introducing this change was limited, principally due to the UK Government's late change to the discount rate which impacted on the valuation timetable. Discussions within the NHS SAB continued to seek agreement on how the cost cap breach would be rectified, with the aim that any agreed changes would be implemented from 1 April 2019. These discussions have now been paused in line with the UK Government's decision to suspend the cost cap process. However, in December, the discussions were detailed and there was a risk that agreement would not be reached in time to allow the necessary legislation to be put in place. SPPA therefore issued a short consultation on the increase in employer contributions, which was known, to ensure it would be implemented for 1 April 2019.

4.2 SPPA recognise that the proposed increase could have a significant effect on NHS employers and in particular GP contractors who are both members and employers under the schemes. Scottish Government officials are engaged in discussions with HM Treasury regarding the level of funding it will provide to schemes to cover this increase and Scottish Ministers have insisted that those costs should be met in full.

4.3 It is important that the cost of pension rights is met in full by staff and their employers at the point those liabilities are incurred, and avoid leaving deficits for the future. The new rate reflects the SCAPE discount rate changes and makes provision for the increased cost of NHS pension benefits going forward.

4.4 There is no impact on Lifetime and Annual pension tax allowances from the increase in the employer contribution rate. For Defined Benefit schemes like the NHS scheme, although employer contributions are taken into account when assessing a member's adjusted income for the purposes of the tapered Annual Allowance limit, it is the value of those contributions, rather than the actual amount paid, that is taken into account. Therefore the actual rate of employer contributions is not relevant in AA calculations and is not affected by the increases in employer contributions being introduced from 1 April 2019. The Lifetime Allowance is based on the value of the member's pension benefits, which is not affected by the employer contribution rate.

5. Next Steps

5.1 SPPA brought forward regulations to the Scottish Parliament to reflect the changes to the scheme regulations as set out above.

Annex A

List of Respondents who agreed to their details being published

Individual respondents

DR Grant Leckie	Dr Rory O Conaire
Adam Syme	Dr Sian Gordon
Ainsley McGroarty	Dr Simon J.Willetts
Alan White	Dr Suzy Walker
Alanna MacRae	Dr Vikas Das Mahesh
Alasdair Macdonald	Dr Walls
Alastair Glennie	Dr Yuen Chong
Alison McAlpine	Dr. Blair Walker
Alison Murphy	Dr. Christine M. Crawford
Alison Robertson	Dr. Graeme Marshall
Andrew Halpin	Dr.RAJESH MUVVA
Andrew Mackay	Fiona Henderson
Andrew Vickerstaff	Fiona Royle
ANDREW WRIGHT	Glenda
Angus Grant	Gordon Forrest
Angus MacTaggart	Graeme Miller
Anna Hayes	Graham Riddle
Anne Morgan	gregory hamill
Anstruther Medical Practice	Haldane Maxwell
Anthony John Simon	Helen Hunter
Apurva Mishra	Iona Maccallum
Brett Finlayson	Isobel Rosemary Jane Bryan
Campbell Watt	Ivan Cabau Sole
Campbell Watt	James Monaghan
Carol Buchanan	James Robertson
Cathryn Miller	Jennifer Boyd
Catriona Morton	John ellis
Catriona Nisbet	John Hardman
Christine Jones	Julia Cree
Christopher Mansbridge	Julie Ellor

Claire Scott	Julie Thomson
Damian Smith	Juliet SIM
Daniel Cumming	Kenneth Deuchar
David Cooper	Kenneth Gallacher
David Howard	Kenneth O'Neill
David Logan	Kyle Medical Practice
David McFadyen	Leo Lanahan
David Ramsay	Lorna Macgregor
David Richmond	Louise Sheil
David Sheridan	Lynn Buchan
Declan Campbell	Lynne Galloway
Dr A Kerr	Mandy Yule
Dr AES MAIR	Marie McGillivray
Dr Alex Flett	Marjorie Stewart
Dr Alice McSherry	Marjory McGinley
Dr Alison O'Brien	Mark Hudson
Dr Bhatti	Martin G McCrone
Dr Brian Kerr	Martin McLaughlin
Dr Catriona Campbell	Mary Lodge
Dr Christopher Ho	Mary Mackintosh
Dr Claire Russell	Mary Rouse
Dr Colin Jamieson	Matthew Williams
Dr Craig McArthur	Michael Harkins
Dr David Boggon	Michael Reid
Dr David Miles	miriam martin
Dr Douglas Thyne	Mrs Lynn Mitchell
Dr Eleanor Love	Murray Will
Dr Elizabeth Stafford	Naomi Mitchell
Dr Emma Chapman	Neil NAvon
dr esther mcgregor	Neil Simpson
Dr Euan R McIntosh	niall garvey
Dr Ewan Gray	Nicholas Ross
Dr Ferguson and partners	Nihala Haque
Dr Fiona Crampsey	Norah Mooney
Dr Gillian Maciver	Parag Patel
Dr Grant Leckie	Paul Costello
Dr Gregor Howe	Peter Churn
Dr H Stevens	Peter McCalister
Dr Hector Macdonald	Queenspark Medical Practice

Dr Iain Mathie	Rhona Cameron
Dr Ian Wilson	Rich Earl
Dr J O Gallagher	Richard Jack
Dr James Cowan	Robert Duncan
Dr James Peter Farrell	Robert M Mair
Dr James Phillips	Ronald Sydney
Dr Jane Dickson	Rosalind Hopkins
Dr Janet Sayers	Rosalind lockens
Dr Janice Oliver	Ross Stewart
dr john montgomery	Roy Robertson
Dr John Sloan	Ruth Keir
Dr Jonathan Nixon	Sam Abushal
Dr Karen Wedlock	Samiah Lateef
Dr Kerri Neylon	Samuel Glasgow-Jackson
DR KULJINDER SINGH	Sarah Anderson
Dr Laura Holden	Sarah Warwick
Dr Lawrie Spence	Satish Ramm
Dr Lorna Corfield	Shazia Hanif
Dr Lorraine Murphy	Shehan Samaranayake
Dr Louise Pettigrew	Shona Beveridge
Dr M S. Morrice	SHONA STEWART
Dr Matthew Gawn	Skeith Health Centre
Dr Matthew J Sweeney	Stenhouse Practice
Dr McCrickard	Stephanie Wells
Dr Michael Foley	Stephen Reid
Dr Michael Mason	Steven McCoy
Dr Michael Rennick	Stewart King
DR MURRAY FLEMING	Susan Gemmill
Dr Neil Wilson	Susan Liddell
Dr Nicola Bramley	Susan Murray
Dr Nicolas Dear	Susan Thornborrow
Dr Patrick Sheil	Susannah Mitchell
Dr Paul Deehan	The Terrace Medical Practice
Dr Paul Robson	Therth
Dr Paul Treon	Thomas Randall
Dr Peter Cawston	Tona Fernandez
DR R D GROSE	Wendy Kirkwood
Dr Raymund White	William Macphee
Dr Roland Leslie	Dr Ronnie Burns

Organisation respondents

Adam Avenue Medical Practice
Alford Medical Practice
Allan Park Medical Practice
Allander Surgery
Almond Group Practice
Ancrum Medical Centre, Drs Allen Thomson & Ip
Ardoch Medical Practice
Ashfield Medical Practice
Ashton Medical Practice
Atlas Medical Practice
Auchinraith Medical Practice
Auchtermuchty Health Centre
Aviemore Medical Practice
Aviemore Medical Practice
Balmore Surgery
Bank Street Medical Group
Barns Medical Practice
Baronscourt surgery
Bishopton Medical Practice
Braehead Medical Practice
Braesview Medical Group
Braids Medical Practice
Branchalwood Medical Practice
Bridge of Allan Health Centre
Broomburn Medical Centre
Burnbank Medical Centre
Burnbrae Medical Practice
Cadzow Health Centre
Calderlea Surgery
Calsayseat Medical Group
Carden Medical Centre
Carolside Medical Centre
Castle Douglas Medical Group
Central Buchan Medical Practice
Church Street Medical Practice
Coldstream Medical Practice
Crown Medical Practice
Cruden Medical Group

Culbin & Varis Medical Practices
Cults Medical group
Dalhousie Medical Praticce
Douglasdale Medical Practice
Dr A Capaldi & Partners
Dr Cassidy & Partners
Dr D Clifford Practice
Dr Dunn and Partners
Dr Fitzsimons and Partners
Dr Hussain and partners
Dr KG Hardie & Partners
Dr Kondol and Partners
Dr McCulloch and Partners
Dr Moffat & Partners
Dr Shaw & Partners
Dr Simpson & PArtners
Drs Duffy and Morgan
Drs Aule Mccoach Dygas
Drs McEvinney, Wright, McLaughlin and Levine
Drs Page, McDonald & Stevenson
Drs Page, McDonald & Stevenson
Drs Quigley and Partners Thornliebank Health Centre
Dr's Rai and Goyal
Drs Webster Leslie & Partners
Drumchapel Medical Practice
Dunblane Medical Practice
Ecclefechan Surgery
Eden Villa Practice
Edenkiln Surgery
Eglington Family Practice
Ellon Group Practice
Elmbank Group Practice
Faraday Medical Practice
Federation of Clinical Scientists
FERGUSON MEDICAL PRACTICE
Fyvie Oldmeldrum Medical Group
Gairbraid Medical Practice
Gardner Street Surgery
General Practice

General Practice
General Practice and Community Medical Education
Gillbrae Medical Practice
Glebe Medical Practice
Gleniffer Medical Group
Haddo Medical Practice
Hamilton Medical Group
Harthill Health Centre
Hermitage Medical Practice
Highland Hospice
Howden Medical Group
Howden Medical Group
Howden Medical Practice
Huntergreen medical practice
Insch Medical Practice
Inverurie Medical Group
Jamieson Medical Practice
Killin Medical Practice
Kings Practice, Glover Street, Perth
Kingsgate Medical Practice
Kingsway Medical Practice
Kirkview Medical Practice
Kittoch Medical Practice
Knightswood Medical Practice
Ladywell Medical Centre West
Lammermuir Medical Practice
Lammermuir Medical Practice
Lanarkshire LMC
Laurencekirk Medial Group
Laurencekirk Medical Practice
Leven Medical Practice
Linden Medical Practice
Lochview Medical Practice
Logan Practice
Longhouse Surgery
Lothian LMC
Low Waters Medical Centre
MacLean Medical Practice
Main Street Medical Centre
Mains Medical centre

Maryhill Group Practice
Meadows Medical Practice
Medical Centre
Medical Practice
Medical Practice
Medwyn Medical Practice
MEEKS ROAD SURGERY
Millhil Surgery
Milton Medical Centre
Nairn Healthcare Group
Newbattle Medical Practice
NHS Ayrshire and Arran
NHS Fife
NHS Grampian
NHS Lothian
NHS National Services Scotland
NHS Orkney
Old Kilpatrick Medical Practice
Old Kilpatrick Medical Practice
Parkview Medical Practice
Path House Medical Practice
Pearson GP Practice
Peel Street Medical Centre
Peel View Medical Centre
Perth & Scone Medical Group
Pittenweem and Elie Medical Practice
Pollokshaws Medical Centre
POLLOKSHIELDS MEDICAL PRACTICE
Portland Medical Practice
Possilpark Health Centre
Queens Crescent Surgery
Radnor Street Surgery
Red Practice
Riccarton General Practice
Riverside Medical Practice
Riverside Medical Practice
Rubislaw Place Medical Group
Saltcoats Group Practice
Seafield & Cullen Medical Group
Selkirk Health Centre
Shaftesbury Medical Practice

Shawlands Surgery
Slateford Medical Practice
Springfield Medical Practice
Springwell Medical centre
Springwell Medical Group
St Margaret of Scotland Hospice
St Triduanas
Stanley Medical Centre
Stepps Surgery
Strathcalder
Strathcalder Practice
Tam's Brig Surgery
Tayview Medical Practice
Tayview Medical Practice
Templehill Surgery
Teviot Medical Practice
The Barony Practice
The Cairntoul practice
The Consulting Rooms GP Practice
The Harbours Medical Practice
The Wood Medical Practice
Thistle Medical Practice
Townhead Medical Practice
Tryst Medical Centre
Tyne Medical Practice
Victoria Practice
Viewpoint Practice
Wallace Medical Centre
Western Isles LMC
Westmuir Medical Centre
Whitburn Group Practice
Whiteinch Medical Practice
Whitesands Medical Practice
Woodside Health Centre
Woodstock Medical Centre