

## National Health Service Superannuation Scheme (Scotland)

Addressees as listed below

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Our ref: NHS/01/44

28 September 2017

Dear Colleague

### Consultation on changes to the NHS Pension Scheme Scotland Regulations

I attach two draft Scottish Statutory Instruments (SSIs) for your consideration and comment. These are:

#### 1. The NHS (Superannuation Scheme) (Scotland) Miscellaneous Amendment Regulations 2018

This instrument will amend the National Health Service (Scotland) Superannuation Regulations 2011 (the 1995 section) and the National Health Service (Scotland) Pension regulations 2008 (the 2008 section).

#### 2. The NHS Pension Scheme (Scotland) (Miscellaneous Amendment) Regulations 2018.

This instrument will amend the National Health Service Pension Scheme (Scotland) Regulations 2015 (the 2015 scheme) and the NHS Pension Scheme (Transitional and Consequential Provisions) Scotland Regulations (The transitional regulations).

In summary the statutory instruments make the following amendments to the NHS pension scheme regulations:

1. Insertion of an updated employee contribution table at the appropriate place in the 1995 and 2008 sections and 2015 scheme regulations. The table updates the pay bands only to reflect the pay award from 1 April 2017.
2. Various technical changes which include inserting a definition of the Public Services Pension Act (Northern Ireland) 2014, amendments to ensure that service in another public



pensions scheme that qualifies for a final salary link may be transferred on a cash equivalent basis where it does not qualify under the Public Sector Club arrangements, an amendment to ensure that in the 2015 CARE scheme that members have the opportunity take out an election to buy out the actuarial reduction once in respect of each period of pensionable service, amendments to ensure the correct amounts of survivor pensions are paid and clarification of what will happen to an active member's account where the member leaves before normal pension age in the CARE scheme.

A list of all the amendments is attached at Appendix A to this letter.

## **Consultation**

You can respond to this consultation online via the following link:

[https://www.surveymonkey.co.uk/r/Consultation\\_NHS\\_Regulationchanges](https://www.surveymonkey.co.uk/r/Consultation_NHS_Regulationchanges)

Alternatively you may complete the Consultation Response Form provided at **Appendix B** which can be submitted electronically to Sharon.liptrott@gov.scot or by post to me at the following address:

SPPA Policy Branch  
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 [www.sppa.gov](http://www.sppa.gov) and at the following link [NHS Consultations](#).

**Responses are requested no later than the closing date of Monday 30 October 2017.**

We may 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*

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

## **Addressees**

HR Directors NHS Boards  
Finance Directors and Payroll managers NHS Boards  
NHS (Scotland) Scheme Advisory Board members  
NHS (Scotland) Pension Board members



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  
SGHD Finance  
NHS Retirement Fellowship  
Home Office, Police and Firemen's Pension Schemes  
Department of Health E&W  
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 (for information)  
HM Treasury  
Scottish Government Legal Directorate  
SPPA (Senior Managers, Policy and Technical Team)



## Explanation of Amending Regulations

### Changes to the pay/earnings bands

#### Revised employee contribution tables (Amendments to the 1995 Section, 2008 Section and 2015 Scheme Regulations)

1. During scheme reform discussions the employee contribution rates were agreed for the period 1 April 2015 to 31 March 2019 on the basis that the pay/earnings bands set out in each tier would increase each year in line with national NHS pay awards in Scotland. This ensures that the tiering remains in line with annual increases in individual members pay. These draft SSIs will therefore insert into regulations an amended employee contribution table at the appropriate points to reflect the pay uplift from 1 April 2017. The revised table below will be applicable from 1 April 2017 for officer members starting or changing employment within the scheme year 2017/2018, and practitioners and non GP partners whose contributions which are based on current year income. **For all other members the table will be applied from 1 April 2018.** Please note the table inserts new pay/earnings bands only and does not increase the percentage of contributions payable.

#### 2018/2019 Scheme Year

<i>Band</i>	<i>Column 1 Pensionable earnings band</i>	<i>Column 2 Contribution percentage rate</i>
1	Up to £16,928	5.2%
2	£16,929 to £22,439	5.8%
3	£22,440 to £27,910	7.3%
4	£27,911 to £51,481	9.5%
5	£51,482 to £73,498	12.7%
6	£73,499 to £114,760	13.7%
7	£114,761 and above	14.7%

2. The amended regulations are D1 and schedule 1 paragraph 14 of the NHS Superannuation Scheme (Scotland) Regulations 2011, regulations, 2.C.2 and 3.C.2 of the NHS Superannuation Scheme (Scotland) (2008) section Regulations 2013 and regulations 30 and 31 in the NHS Pension Scheme (Scotland) Regulations 2015.

3. The following table details the above changes and also other changes contained in the draft SSIs.

## Table of proposed Changes to NHS Pension Scheme Regulations

Proposed Changes	Regulations amended				
		<a href="#">1995 Section (SSI 2011/117)</a>	<a href="#">2008 Section (SSI 2013/174)</a>	<a href="#">2015 Scheme (SSI 2015/94)</a>	<a href="#">Transitional (SSI 2015/95)</a>
Inserts new definition - the Public Services Pension Act (Northern Ireland) 2014 Act			2.A.1 3.A.1		
Inserts new employee contribution table with updated pay bands and amends references within the regulations to the correct table for the scheme year 2018-2019.	D1 and schedule 1 paragraph 14		2.C.2, 2.C.3 and 3.C.2	30 and 31	
Makes a change to ensure that any large increases in a member's salary that are solely due to bringing them in line with the national living wage should not result in a charge to employers. This change is retrospective to 1 April 2016.	D3				
Amends the regulations to include references to the Public Services Pension Act (Northern Ireland) so that protected members of public service final salary schemes in Northern Ireland are not barred from joining other UK final salary schemes.			2.B.3 and 3.B.2		
An amendment is made to ensure service in another public pension scheme that qualifies for a final salary link may be transferred on cash equivalent terms where the member does not qualify for a transfer under the Public Sector Club arrangements.			2.F.9		
Amends the regulations so that when a member joins the 2015 scheme after a 5 year break they are notified within 3 months of their right to transfer in benefits from the 1995 or 2008 scheme on a Cash Equivalent Transfer Basis and of their right to apply for a statement of entitlement.	M7A		2.F.18 and 3.F.18		
Makes a correction to the definition of pensionable earnings in relation to "other practitioners".			3.A.11		

	<a href="#">1995 Section (SSI 2011/117)</a>	<a href="#">2008 Section (SSI 2013/174)</a>	<a href="#">2015 Scheme (SSI 2015/94)</a>	<a href="#">Transitional (SSI 2015/95)</a>
Amendments made to ensure that members have the opportunity to take out an election to buy out an actuarial reduction once in respect of each period of pensionable service those results in a new active member's account being established. A new active member's account is established when a member first joins the 2015 Scheme or re-joins the 2015 Scheme after taking a refund or a transfer or after having a break in pensionable service of more than five years.			42	
Inserts a new paragraph (5), which replicates the provisions of 2008 Section regulation 2.C.12 (4) in order to clarify when a member or an employing authority is to be treated as having made an additional pension election.			57	
Amended for clarity.			62,	
The amendment, to paragraph (1), clarifies that the additional pension election can be for 'self-only' or for 'self-only and survivor's pension'.			68	
Omits regulation 69(2) (b), which refers to the repayment of a lump sum additional pension contribution to an employing authority. This is a duplicate provision, found in regulation 62. Paragraph (3) of regulation 69 is replaced with new paragraphs (3) and (4) to bring the drafting into line with the corresponding provision in regulation 68.			69	
Amended for clarity			89	
To clarify that the scheme manager, when assessing whether the member is permanently incapable of discharging the duties of their employment because of ill health, should only consider the scope of the treatment to that which the member could receive before reaching prospective normal pension age or would improve the member's health before reaching that age.			90	

	<a href="#">1995 Section (SSI 2011/117)</a>	<a href="#">2008 Section (SSI 2013/174)</a>	<a href="#">2015 Scheme (SSI 2015/94)</a>	<a href="#">Transitional (SSI 2015/95)</a>
<p>This amendment makes regulation 122 clearer on the amount of any pension increases to be included in the base pension which is used to calculate a child pension in circumstances where a member dies within twelve months of leaving. Any increases to be applied will be those due up until the day after the deceased member's last day of service.</p>			122	
<p>Amends the provision for the "leaver index adjustment" so that in the circumstances where the application of a negative CPI plus 1.5% would otherwise cause the amount of pension in payment to reduce, this amendment ensures that the reduction will not apply so that the pension in payment will remain unchanged.</p>			Schedule 7 paragraph 3	
<p>Inserts new Part 2A (paragraphs 15A to 15C) into Schedule 7 with <u>retrospective effect to 1 April 2015</u> to cover circumstances not adequately provided for in the original 2015 Scheme Regulations. The new paragraphs cover what will happen to an active member's account when that member leaves pensionable service before qualifying for retirement benefits and what happens when such a member subsequently returns to pensionable service after a break not exceeding five years or a break that does exceed five years.</p> <p>New paragraph 15A provides for an active member's account to be closed when a member leaves before qualifying for retirement benefits.</p> <p>New paragraph 15B provides for an active member's account to be re-opened where such a member</p>			Schedule 7 Paragraph 15	

<p>returns after a break not exceeding five years as long as the member has not taken a refund or a transfer for the earlier service. In these circumstances the amount of the member's pension for the earlier service will be adjusted as if the member had continued in pensionable service during the break but had not received any new pensionable earnings during that time.</p> <p>New paragraph 15C provides for an active member's account to remain closed where such a member returns after a break not exceeding five years. A new account is opened in respect of the further service but the member will usually only be entitled to a refund for the earlier service.</p>				
<p>Schedule 12 is amended to ensure that where a member dies in service but also had entitlement to a deferred pension for earlier service, only one lump sum on death is due to be paid at the higher "in service" rate.</p> <p>The definition of "revalued pension earnings" is also clarified in respect how increases equal to pensions increases in the Pensions (Increase) Act 1971 are applied.</p> <p>Change is retrospective to 1 April 2015.</p>			Schedule 12	
<p>Transitional Regulation 18 ensures that practitioner earnings in the old scheme are not uprated twice (once under Scheme Regulations and again under the Pensions (Increase) Act 1971) after a practitioner has moved to the new scheme on or after 1 April 2015 under transitional arrangements. However, the uprating due in respect of the credit of earnings for added years being purchased under transitional arrangements should still be provided for in scheme regulations. This omission is corrected.</p>				





	<a href="#">1995 Section (SSI 2011/117)</a>	<a href="#">2008 Section (SSI 2013/174)</a>	<a href="#">2015 Scheme (SSI 2015/94)</a>	<a href="#">Transitional (SSI 2015/95)</a>
<p>New paragraphs 6(A) to 6(C) inserted into regulation 28 of the transitional regulations.</p> <p>6(A) -This paragraph provides for new paragraphs (6B) and (6C) to apply if members receiving a pension under regulation 28 die before reaching old scheme normal pension age</p> <p>6(B). This paragraph increases the amount of spouse and partner pensions payable to the correct level. The level of increase is different depending on whether the member was a member of the 1995 or the 2008 Section before joining the 2015 Scheme.</p> <ul style="list-style-type: none"> <li>• 1995 Section members - in addition to 33.75% of the deceased member's total pension, the spouse and partner pension will also include a further amount equivalent to 16.25% of the deceased member's pension that would have been due under the 1995 Section.</li> <li>• 2008 Section members - likewise, an additional amount that is equivalent to 3.75% of the deceased member's pension that would have been due under the 2008 Section will also be included in the spouse or partner pension paid.</li> </ul> <p>6(B) This paragraph increases the amount of child pension payable. The level of increase is different depending on whether the member was a member of the 1995 or the 2008 Section before joining the 2015 Scheme.</p> <ul style="list-style-type: none"> <li>• 1995 Section members – in addition to 67.50% of the deceased member's total pension, the amount of the pension on which a child's pension is based will also include an additional amount equivalent to</li> </ul>				18



<p>32.5% of the deceased member's pension that would have been due under the 1995 Section</p> <ul style="list-style-type: none"> <li>• 2008 Section members – likewise, an additional amount equivalent to 7.5% of the deceased member's pension that would have been due under the 2008 Section will be added to the amount on which a child's pension is based</li> </ul>				

## CONSULTATION RESPONSE FORM: Consultation on draft Scottish Statutory Instruments

### 1. The NHS (Superannuation Scheme) (Miscellaneous)(Scotland) Amendment Regulations 2018

### 2. The NHS Pension Scheme (Scotland) (Miscellaneous Amendment) Regulations 2018.

#### 1. Name/Organisation

Organisation Name

Title

Surname

Forename

#### 2. Postal Address

Postcode	Phone	
Email		

#### 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
- Not applicable

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

Please post your response to:

Mrs Sharon Liptrott  
NHS Pension Scheme (Scotland)  
SPPA Policy  
7 Tweedside Park  
Tweedbank  
Galashiels  
TD1 3TE

**The closing date for this consultation is Monday 30 October 2017**