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NHS Pension Scheme consultees

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20 December 2019

Dear Colleague

Consultation on changes proposed by The NHS Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2020

Please find enclosed for comments, a draft of The NHS Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2020. I would be grateful if you would distribute this letter and attachments as widely as possible.

These Regulations amend the The NHS Superannuation Scheme (Scotland) Regulations 2011, The NHS Superannuation Scheme (2008 Scheme) (Scotland) Regulations 2013, The NHS Pension Scheme (Scotland) Regulations 2015 and The NHS Superannuation Scheme (Miscellaneous) (Scotland) Regulations 2017. The amendments are effective from 1 April 2020.

Changes to the pay/earnings bands

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

The member contribution rates were set in 2015 on the basis that the pay/earnings bands set out in each tier are increased 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. This draft SSI will therefore insert into regulations an amended member contribution table at the appropriate points to reflect the pay uplift from 1 April 2020. Please note the table inserts new pay/earnings bands only and does not increase the percentage of contributions payable.



<i>Band</i>	<i>Column 1 Pensionable earnings band</i>	<i>Column 2 Contribution percentage rate</i>
1	Up to £18,936	5.2%
2	£18,937 to £23,228	5.8%
3	£23,229 to £28,891	7.3%
4	£28,892 to £56,266	9.5%
5	£56,267 to £79,801	12.7%
6	£79,802 to £117,960	13.7%
7	£117,961 and above	14.7%

Changes to Final Pay Controls

Final pay controls are provided for under Regulation D3 of the 2011 Regulations to safeguard the NHS Pension Scheme against inordinate pensionable pay increases for members approaching retirement. Regulation D3 protects the scheme from the increased cost of paying pensions inflated by excessive late career pay rises and is only relevant to members with final salary pension benefits.

If a member receives an increase to their pensionable pay that exceeds the ‘allowable amount’ in any of the three years prior to their last day of service, the employing authority that awarded the excess pay will be liable for the final pay control charge. The policy intention is not to impose a final pay control charge following every pay rise and after consulting with the Government Actuary’s Department the allowable amount was set at 4.5% plus the rate of the Consumer Price Index (CPI). Where CPI is nil or negative the allowable amount is 4.5%. The value of the final pay control charge is the difference between the pension that will be payable and the pension that would have been payable if it had been based on a final salary that is the same as the allowable amount.

The Agenda for Change (AfC) pay deal provides for increases to pay of at least 9% for NHS employees over 3 years. The initial pay increases awarded under the AfC pay deal were backdated to 1 April 2018. NHS employees who receive a pay increase under AfC pay deal and then retire shortly afterwards may fall within the scope of the Final Pay Control regulations and their employer would subsequently be liable for a charge under the 2011 Regulations. The intention of the Final Pay Controls policy is to claim back extra pension monies from an employer where they have purposefully awarded a pay increase with the intention of increasing a member’s pension entitlement. It is not intended to capture mandatory pay increases such as those in relation to the AfC pay deal.

Therefore, we propose amending Regulation D3 of the 2011 Regulations to exempt from Final Pay Control provisions, any pay increase arising from the AfC pay award. A similar exception has previously been made for increases to the National Minimum Wage.



The NHS Superannuation Scheme (Scotland) Regulations 2011

Paragraph 3 amends regulation D1 to insert the amended member contribution table which reflects the uplift in pay from April 2020. Paragraph 4 inserts into the list of exceptions to the final pay control charge in paragraph D3, a new provision that exempts an increase in pensionable pay that is pursuant to the AfC framework agreement which was adopted on 17 August 2018. Paragraph 5 amends schedule 1 to insert the member contribution table for medical and dental practitioners.

The NHS Superannuation Scheme (2008 Section) (Scotland) Regulations 2013

Paragraphs 7, 8 and 9 amend regulations 2.C.2, 2.C.3, and 3.C.2 to insert the amended member contribution table which reflects the uplift in pay from April 2020.

The NHS Pension Scheme (Scotland) Regulations 2015

Paragraphs 11 and 12 amend regulations 30 and 31 to insert the amended member contribution table which reflects the uplift in pay from April 2020.

The NHS Superannuation Scheme (Miscellaneous) (Scotland) Regulations 2017

Paragraphs 14 makes minor corrective amendments to the regulations.

You can respond to this consultation on line via the following link:-

<https://www.surveymonkey.co.uk/r/NHSConsult2019>.

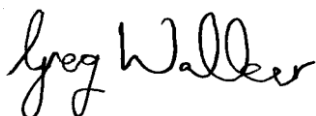
Alternatively you may complete the Consultation Response Form attached at Annex A which can be submitted electronically to SPPAPolicy@gov.scot or by post to the following address:

NHSPS Consultation, SPPA Policy, 7 Tweedside Park, Tweedbank, Galashiels, TD1 3TE

The proposed changes reflect an agreed policy, provides protection for employers where Agenda for Change increases exceed the scheme's "allowable amount" and corrects an earlier amendment to the scheme. The changes to the pay bands need to be included in the scheme from April 2020 and therefore are subject to a shorter consultation period. The changes set out in the attached draft instrument do not introduce any detrimental effect.

The consultation will close on **13 January 2020**. 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 Scottish Government 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 SPPA under that Act for information concerning this consultation exercise.



Greg Walker, Policy Manager



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HR Directors NHS Boards
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The NHS (Scotland) Pension Board
SPPA Technical Working Group
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Women's National Committee
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CONSULTATION RESPONSE FORM

THE NHS SUPERANNUATION AND PENSION SCHEMES (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2020

CONSULTATION on The NHS Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2020

(please complete and return to the address at the end of the form to ensure that we handle your response appropriately).

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:



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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)

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)

What is your working pattern?

- I work part-time
- I work full- time
- Not applicable

CONSULTATION COMMENTS

Please use this space to provide any comments on the amendments.

Comments:

Please e-mail your response to SPPAPolicy@gov.scot or send via mail to:

NHSPS Consultation (2020 Amendments)
SPPA Policy
7 Tweedside Park
Tweedbank
Galashiels
TD1 3TE

The closing date for receipt of comments is **10 January 2020**.



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