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| NHS Pension Scheme consultees | | 7 Tweedside Park  Tweedbank  GALASHIELS  TD1 3TE  <www.pensions.gov.scot>  Tel: 08196 893000  sppapolicy@gov.scot  3 March 2022 |
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Dear Colleague

**Consultation on changes proposed by the National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2022**

Please find enclosed for comments, a draft of The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2022. I would be grateful if you would distribute this letter and attachments as widely as possible.

These Regulations amend The NHS Superannuation Scheme (Scotland) Regulations 2011, The NHS Superannuation Scheme (2008 Section) (Scotland) Regulations 2013 and The NHS Pension Scheme (Scotland) Regulations 2015.

**1. Changes to member contributions pay/earnings bands**

Revised employee contribution tables (Amendments to the 2015 Scheme Regulations)

1.1. The SPPA published a consultation on 24 January 2022 entitled, [NHS Pension Scheme (Scotland): proposed changes to member contributions from 1 April 2022: Scottish Government consultation 2022.](https://www.pensions.gov.scot/sites/default/files/2022-02/Consultation%20Document%20-%20NHS%20Member%20Contributions%202022.pdf) The consultation sought views on the reform of the member contribution structure from 1 April 2022 and proposed the following changes to the structure:

* Change members’ contribution rates so that they would be based on actual pensionable pay instead of members’ notional whole-time equivalent pay
* Rebalance contribution rates by reducing the highest contribution tiers and narrowing the range of contribution rates.
* Change to the approach of increasing tier boundaries in line with annual AfC pay awards
* Phase in the member contribution structure over 2 years

1.2. The consultation closed on 27 February 2022 and SPPA published an [interim consultation response](https://pensions.gov.scot/sites/default/files/2022-03/NHS_Interim_Consultation_Response_-_proposed_changes_to_member_contributions_from_1_April_2022.pdf) on 3 March 2022. The interim consultation response confirmed that **the introduction of the reforms would be postponed from 1 April 2022 until 1 October 2022**. This delay reflects the immediate pressures on the take-home pay of NHS staff from 1 April 2022 and the impact of increases in National Insurance Contributions from the same date.

1.3. The postponement is designed to mitigate the impact on take-home pay for some NHS staff, as much as possible, in the short-term. However, by postponing the reforms, the need for reform of the member contribution structure is balanced against managing the impact on members’ net income, particularly those who work full time on lower rates of annual pay.

1.4. While the changes to the contribution rates and the overall structure are postponed until October 2022, Scottish Ministers are required to bring forward regulations to provide member contribution rates from 1 April 2022, as the current rates expire on 31 March 2022. The percentage rates will remain the same but we propose to uprate the contribution tier earnings thresholds in line with the annual NHS pay award for 2021/22, in line with the approach taken since 2015.

1.5. 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 tiers remain 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 2021. Please note the table inserts new pay/earnings bands only and does not increase the percentage of contributions payable.

2022/2023 Scheme Year

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| --- | --- | --- |
| *Band* | *Column 1*  *Pensionable earnings band* | *Column 2*  *Contribution percentage rate* |
| 1 | Up to £21,614 | 5.2% |
| 2 | £21,615 to £25,981 | 5.8% |
| 3 | £25,982 to £32,914 | 7.3% |
| 4 | £32,915 to £66,017 | 9.5% |
| 5 | £66,018 to £92,423 | 12.7% |
| 6 | £92,424 to £123,147 | 13.7% |
| 7 | £123,148 and above | 14.7% |

Consultation Question

**Q1**. - Do you agree or disagree that the proposed draft amending regulations deliver the policy objectives of ensuring that the contribution tiers remain in line with annual increases in individual members’ pay?

**2. Proposed amendments to continue the suspension of restrictions on return to work introduced by the Coronavirus Act 2020 (section 46)**

2.1. A key component of the Scottish Government’s response to the coronavirus (COVID-19) pandemic has been measures to boost the available NHS workforce. Accordingly, section 46 of the Coronavirus Act 2020 suspends rules in the NHS Pension Scheme (Scotland) (NHSPS[S]) to allow retired and partially retired staff to return to work or increase their working commitments without having their pension benefits suspended.

2.2. The Coronavirus Act 2020 temporarily suspends the following rules from 25 March 2020:

1. The ‘16-hour rule’

* This rule prevents members who return to work after retirement from the 1995 Section of the NHS Pension Scheme from working more than 16 hours per week in the first calendar month after retirement. Where staff work more than 16 hours in the first month their pension ceases to be payable until the member leaves NHS employment or reduces to 16 hours per week.
* Suspension of this rule allows members to return immediately to work after taking a minimum 24-hour retirement and continue their existing working commitments, or increase them, whilst they remain in receipt of their full pension benefits.

1. Abatement for special class status holders in the 1995 Section

* Suspension of this rule will continue to remove a barrier which stops retired special class nurses and mental health officers under the age of 60 from returning to work without having their pension reduced or suspended based on their earnings.

1. Abatement in the 2008 Section and 2015 Scheme for members who have taken partial retirement.

* This is where a person has elected to take partial retirement and ‘draw down’ a portion of their benefits. In order to access partial retirement members must have a reduction in their actual pensionable pay of at least 10%. If the member’s pensionable pay increases in excess of 90% of the level before draw down was taken, within 12 months of its reduction, then member’s pension is abated.
* This rule is currently suspended and members who have taken partial retirement are therefore able increase their earnings or commitments to the NHS.

2.3. The suspension of the NHSPS(S) restrictions relating to retired staff returning to work will cease to have effect from 25 March 2022 when section 46 of the Coronavirus Act 2020 expires. However, the Scottish Government recognise that suspension of these rules is currently allowing skilled and experienced staff, who have recently retired from the NHS, to return to work and is providing valuable additional capacity to NHS Scotland. This is particularly important as the NHS continues to tackle the pandemic, deliver the vaccination programme and implement the Covid recovery plan.

2.4. Therefore, the Scottish Government considers that it is appropriate to continue the temporary suspension of NHSPS(S) rules, provided via section 46 of the Coronavirus Act, until 31 October 2022.

2.5. The draft regulations provide for the continued easement of the restrictions via temporary modifications to the NHSPS(S) regulations. These changes would take effect from 25 March 2022 – to ensure a seamless transition from the expiry of section 46 – and run until 31 October 2022.

**Consultation Questions**

**Q2**. - Do you agree or disagree that the temporary pension easements currently provided by section 46 of the Coronavirus Act should be continued beyond the planned expiry of the act from 25 March 2022?

Please explain your answer

**Q3.** - Do you agree or disagree that the continuation of the easements until 31 October 2022 is a reasonable length of time?

Please explain your answer

The consultation will close on **17 March 2022.** 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.

Yours faithfully



Greg Walker

Interim Policy Lead

SPPA Policy Team

Copies to:

Chief Executives NHS Boards

HR Directors NHS Boards

The NHS (Scotland) Advisory Board

The NHS (Scotland) Pension Board

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 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 only)

HM Treasury

Savings, Pensions, Share Schemes HMRC

SGLD

SPPA Scheme Managers

Standard Life

**CONSULTATION RESPONSE FORM**

**CONSULTATION on The NHS Superannuation and Pension Schemes (Scotland) (Miscellaneous Amendments) Regulations 2021**

***1. Name/Organisation***

**Organisation Name**

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**Title**

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**Surname**

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**Forename**

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***2. Postal Address***

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| **Postcode** | **Phone** |  |
| **Email** | | |

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

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|  |  |  | **Individual** | | | | **or** | **Group/Organisation** | | | |  |  |  |
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| **(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:*** | | | | | |  | **(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). | | | | | |
| **(b)** | Where confidentiality is not requested, we will make your responses available to the public on the following basis | | | | | |  |  | Are you content for your ***response*** to be made available? | | | | | |
|  | ***Please state yes to one of the following:*** | | | | | |  |  | ***Please state yes or no: ……………*** | | | | | |
|  | 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 | | | | | **………** |  |  |  | | | | |  |
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| **(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

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| 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 |

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| 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 |

**CONSULTATION COMMENTS**

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

**Question 1** - Do you agree or disagree that the proposed draft amending regulations deliver the policy objectives of ensuring that the contribution tiers remain in line with annual increases in individual members pay?

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| |  | | --- | | Comments: | |

**Question 2** - Do you agree or disagree that the temporary pension easements currently provided by section 46 of the Coronavirus Act should be continued beyond the planned expiry of the act from 25 March 2022?

Please explain your answer

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| --- | --- |
| |  | | --- | | Comments: | |

**Question 3** - Do you agree or disagree that the continuation of the easements until 31 October 2022 is a reasonable length of time?

Please explain your answer

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| |  | | --- | | Comments: | |

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Please e-mail your response to [SPPAPolicy@gov.scot](mailto:SPPAPolicy@gov.scot) or send via mail to:

NHSPS Consultation (2022 Amendments)

SPPA Policy

7 Tweedside Park

Tweedbank

Galashiels

TD1 3TE

The closing date for receipt of comments is **17 March 2022.**