



Scottish Public
Pensions Agency
Buidheann Peinnseanan
Poblach na h-Alba

**NHS Pension Scheme
(Scotland): Consultation on
the continued suspension of
return to work restrictions**

About this consultation

The NHS Pension Scheme (Scotland) rules place certain restrictions on the earnings and working commitments of some retired and partially retired staff who return to NHS employment.

As part of the Scottish Government's response to the Coronavirus (Covid-19) pandemic, measures were introduced to boost the available NHS workforce. One such measure was to suspend the NHS Pension Scheme (Scotland) rules to allow retired and partially retired staff to return to work or increase their working commitments without having their pension benefits suspended or abated.

The pension scheme restrictions were suspended from 25 March 2020 to 25 March 2022 by section 46 of the Coronavirus Act 2020. Following the expiry of that section of the Coronavirus Act, Scottish Ministers made the decision to extend the suspension of the rules from 25 March to 31 October 2022 via temporary amendments to the NHS Pension Scheme (Scotland) Regulations. The restrictions are therefore due come back into effect from 1 November 2022 as previously advised in [SPPA circular 2022/02](#).

Scottish Ministers have kept the impact of the temporary suspension of the restrictions under review. Retired and partially retired staff continue to provide valuable additional capacity to the NHS as we approach the busy winter period. Therefore, recognising the potential challenges the health service could face over the winter and the potential impact of COVID-19 on staff sick absence rates, Scottish Ministers are of the view that the suspension of the restrictions should continue. We have therefore sought agreement from HM Treasury to extend the suspension of the restrictions and they have given their consent to a further extension until 31 March 2023.

This consultation sets out our intention to continue with the temporary suspension of the restrictions on retired staff returning to work, via temporary modifications to NHS Pension Scheme regulations. These changes would amend the existing expiry date from 31 October 2022 to 31 March 2023.

Background

For the vast majority of NHS staff, the NHS Pension Scheme (Scotland) does not place any limits on the amount they can work should they return after claiming their pension benefits. However, there are three rules across the schemes that limit the amount some retired staff can work in specific circumstances:

I. The '16-hour rule'

- This rule prevents members who return to work after retirement from the 1995 Section of the NHS Pension Scheme (Scotland) 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.
- The current 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.

II. Abatement for Special Class Status (SCS) holders in the 1995 Section

- This rule applies to SCS members, including mental health officers, who are eligible to retire from the 1995 section at age 55 instead of 60 without an actuarial reduction in their pension: abatement applies where staff return to work before age 60 and their pension plus salary exceeds their pre-retirement income.

III. 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.

The suspension of the NHS Pension Scheme (Scotland) restrictions relating to retired staff returning to work will cease to have effect from 31 October 2022 when current temporary provisions expire. 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 given the continuing presence of COVID-19 and the potential impact on sickness absence rates of NHS

staff. Therefore, there is a case for continuing the temporary easements to deal with the potential challenges of the upcoming winter period.

The Scottish Government considers that it is appropriate to continue the temporary suspension of NHS Pension Scheme (Scotland) rules until 31 March 2023.

Proposed amendments to NHS Pension Scheme (Scotland) regulations

This consultation includes a draft of The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2022. 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.

The draft regulations provide for the continued easement of the NHS Pension Scheme restrictions relating to retired staff returning to work via temporary modifications to the NHSPS(S) regulations. These changes would take effect from 1 November 2022 to ensure a seamless transition from the expiry of the current temporary amendments.

The amendment to the regulations will continue the temporary suspension of:

- the 16-hour rule in the 1995 section
- abatement of SCS members who retire and return to work between age 55 and 60 in the 1995 section
- abatement of draw-down members who claim a portion of their benefits and continue working in the 2008 section and 2015 scheme

Consultation Process

The Scottish Government welcome views on the proposals set out in this document to continue the temporary suspension of restrictions, relating to retired staff returning to work, by way of temporary modification.

Respondents are invited to consider the following:

Q1. – Do you agree or disagree that the proposed draft amending regulations deliver the policy objectives of continuing the temporary suspension of restrictions relating to retired staff returning to work until 31 March 2023?

Please explain your answer.

Q2. – Do you agree or disagree that the continuation of the easements until 31 March 2023 is a reasonable length of time?

Please explain your answer

The consultation will close on **Monday 19 September 2022**.

Responses are invited via the attached [consultation response form](#)

We intend to publish a summary of consultation responses in due course and would like to include any response you make in that summary. If, however, you ask that we do not publish your response to this consultation, we will regard it as confidential and will treat it accordingly.

Respondents should be aware that the Scottish Government is subject to the Freedom of Information (Scotland) Act 2002, and will respond appropriately to any relevant request made to the SPPA under that Act for information concerning this consultation exercise.