



Scottish Public
Pensions Agency

Buidheann Peinnseanan
Poblach na h-Alba

NHS Pension Scheme (Scotland): Consultation on Retirement Flexibilities and Changes to Pension Rules Regarding Inflation

Consultation Response

March 2023

1. Introduction

1.1. The Scottish Government recognises that some NHS Scotland staff who are approaching retirement might prefer more flexibility around their retirement options and the ability to continue in employment while claiming their pension. On behalf of the Scottish Ministers, the Scottish Public Pensions Agency undertook a [consultation](#) between 22 December 2022 and 16 February 2023 on proposals to allow for the introduction of new retirement flexibilities to the NHS Pension Scheme (Scotland) (NHSPS[S])

1.2. In addition to the new retirement flexibilities, the consultation also proposed to address issues in relation to Consumer Price Index (CPI) inflation and its impact on pension tax calculations for some members of the NHSPS(S). It is hoped that by taking action on these rules, there will be less likelihood that NHS staff face annual allowance tax charges as a result of high inflation, which might otherwise lead to senior clinicians and GPs reducing or limiting their hours in the workplace or seeking early retirement.

2. Background – Retirement Flexibilities

2.1. The NHSPS(S) is made up of two existing schemes: the final salary scheme, or legacy scheme, which has two sections, [the 1995 Section](#) and [the 2008 Section](#); and [the 2015 Scheme](#) which is a career average revalued earnings (CARE) scheme that provides benefits based on average earnings over a member's career. The 1995 and 2008 Sections closed to all members on 31 March 2022 and from 1 April 2022 all members joined the 2015 Scheme.

2.2. At the time the 1995 Section was designed, retirement patterns were understood to be relatively binary; staff would typically work full-time until claiming their benefits and retiring. After this point, members were unlikely to return to NHS service, and the rules of the NHSPS(S) restricted the incentives to do so by preventing any further pension accrual.

2.3. However, we understand that retirement today can often be a gradual process over a number years, rather than a cliff edge. The Scottish Government recognises that some staff who are approaching retirement may prefer more flexibility around their retirement options and the ability to continue in employment after claiming their pension. To that end, the Scottish Government recently published [retire and return guidelines](#) which make it easier for experienced NHS staff who to return to work following retirement.

2.4. The consultation document set out a number of retirement flexibilities which are designed to offer staff increased options at the end of their careers, so that they can partially retire or return to work seamlessly and continue building pension after retirement if they wish to do so.

3. Retirement Flexibility Proposals

Pensionable Re-employment

3.1. Under the existing regulations of the NHSPS(S), members who take their 1995 Section benefits are not permitted to build up any further pension in the 2015 Scheme. If they do return to work, this is on a non-pensionable basis. Because the 1995 Section does not have any late retirement factors (LRFs), if members choose to leave these benefits unclaimed after the Normal Pension Age (NPA), they do not increase in value.

3.2. Now that all members have been moved to the 2015 Scheme for future accrual, these rules could cause problems for those who need to carry on working to be able to afford to retire but wish to claim their 1995 Section benefits when they are most valuable.

3.3. The consultation therefore proposed an amendment to allow members who take their benefits in the 1995 Section to return to work and build further pension in the 2015 Scheme if they wish. It is also proposed to allow members who are currently non-pensionable in the 1995 and 2008 Sections, because they have breached the maximum service limits, to join the 2015 Scheme. However, the age limit for 2015 Scheme membership (age 75) will apply as normal.

3.4. Under the proposal, members with special class status (SCS) would still be subject to abatement until age 60 under normal circumstances. This would mean that their pension is reduced if their pension plus salary after returning to work exceeds their pre-retirement income. However, abatement for SCS members is currently suspended until 31 March 2025. More information on the suspension of abatement is provided in SPPA's [consultation response](#) on these suspensions and in the accompanying [circular 2022/11](#).

Partial Retirement

3.5. Under the current 1995 Section regulations, members are currently unable to partially retire, or to take some of their pension benefits whilst continuing to work and build further pension. Taking part of your pension benefits is also sometimes known as 'draw down.'

3.6. The consultation proposed an amendment to the 1995 Section regulations to allow members to partially retire and claim up to 100% of their 1995 Section benefits whilst continuing to work and accrue further pension in the 2015 Scheme. Under this proposal, on reaching minimum pension age (currently 55), members will become eligible to partially retire if they reduce their pensionable pay by at least 10%. For GPs, a 10% reduction in commitment would be required. Members with a protected minimum pension age of 50 will be able to partially retire from age 50.

The consultation proposed that partial retirement is expected to be implemented in summer 2023

3.7. It is proposed the option to partially retire would be open to all members, although SCS members would be subject to standard abatement under normal circumstances until age 60. However, abatement for SCS members is currently suspended until 31 March 2025.

Other proposed changes in relation to partial retirement

3.8. To ensure consistency with the 2008 Section and the 2015 Scheme, under the proposal for partial retirement, abatement will apply to 1995 Section members who choose to partially retire (reducing their pensionable pay by at least the required 10%) but whose terms of employment later change again so that their pensionable pay increases to more than 90% of what it was before the original reduction. As outlined above, drawdown abatement for members of the 2008 Section and 2015 Scheme is currently suspended until 31 March 2023 through the retire and return easements and will resume on 1 April 2023.

3.9. The consultation proposed other changes linked to the introduction of partial retirement, including allowing for 100% drawdown in 2008 Section and 2015 Scheme, instead of the existing 80%, to align with proposals for the 1995 Section. It also proposed to correct an error in regulation 85(3) of the 2015 Regulations in respect of abatement following retirement from that scheme where members hold additional pension. The change would ensure that additional pension is not subject to abatement in the 2015 Scheme, upon partial retirement which is in line with 2008 Section rules.

Removing the 16-hour rule

3.10. Under the rules of the 1995 Section, members who choose to take their pension benefits and then return to work can only work a maximum of 16 hours per week in their first month back without impacting their pension. This rule can be administratively difficult for employers to manage, and it may also discourage staff from returning to work or increasing their commitment to more than 16 hours per week after their first month back. It is therefore proposed to amend the 1995 Section regulations to permanently remove this rule. This would apply to all members, including SCS members.

3.11. This amendment has been designed to complement the proposal for pensionable re-employment in the package of retirement flexibilities, by allowing staff to have a smooth transition back into work after claiming their 1995 Section benefits and allowing them to maximise the hours they contribute, if they wish, without impacting their pension.

Removing regulation R4(6) from the 1995 Section

3.12. Regulation R4(6) applies to members with more than one employment and means that if they retire from at least one NHS employment, they can remain working in the NHS and still be entitled to claim their pension, provided they do not work for more than 16 hours per week. This is the same number of hours members can currently work on their first month back after retirement without impacting their pension. Given that the intention is to permanently remove the 16-hour rule, it has considered that it is also appropriate to remove regulation R4(6).

3.13. Because of the intention to introduce pensionable re-employment, if this regulation remained in place from 1 April 2023, impacted members would be able to claim their 1995 Section benefits and continue working and building further pension in the 2015 Scheme, without a break. Therefore, this may be unfair on members who work more than 16 hours per week and wish to continue without a break, as they would be required to take partial retirement and reduce their pensionable pay by at least 10%, whereas members impacted by regulation R4(6) may not need to.

3.14. There is also not a similar rule in the 2008 Section or 2015 Scheme, which means that members with more than one employment must cease them all to be able to claim their pension. Therefore, to align the rules of the 1995 Section, 2008 Section and 2015 Scheme, it is proposed to permanently remove this regulation from 1 April 2023

4. Background – Changes to the pension rules regarding inflation

4.1. The recent rapid increase in CPI inflation has shown there to be a timing mismatch between the CPI rate that is used to revalue accrued benefits in the NHSPS(S) and the CPI rate that is allowed for in annual allowance (AA) tax calculations. Aligning these timings will ensure that the AA only measures pension growth that occurs above inflation.

4.2. For active members of the 2015 Scheme the pension they earn is increased yearly by a percentage rate, known as ‘in-service revaluation’. This continues to occur yearly until a member retires or ends their active membership of the 2015 Scheme before retirement. The percentage rate of in-service revaluation is determined by a yearly Public Service Pensions Revaluation Order (the Treasury Order), plus an additional 1.5%. Treasury Orders are the method by which HM Treasury notifies the value of CPI change to be applied to in-service revaluation.

4.3. Pension benefits in the 1995 and 2008 Sections of the Scheme for medical, dental and ophthalmic practitioners are also revalued (uprated) in a similar way using a factor known as the ‘dynamising factor.’ Practitioner pensionable earnings are multiplied by the relevant dynamising factor yearly. The practitioner pension accrual rate is then 1.4% in the 1995 Section and 1.87% in the 2008 Section, of the total uprated practitioner pensionable earnings amount.

4.4. The growth in pension savings during a tax year is referred to as the pension input amount (PIA). If an individual's PIA is more than their AA, the individual may be liable to pay tax on the amount that is over their AA. The intention is that the PIA should only consider growth in pension savings above inflation.

4.5. The 2015 Scheme in-service revaluation and the calculation of the PIA both use CPI. However, there is a disparity between the CPI used for the in-service revaluation of the 2015 Scheme pension and the CPI used as part of the PIA calculation. The issue for practitioners with CARE benefits in the 1995/2008 Sections is similar to the issue for other members in the 2015 Scheme. Dynamising factors are currently applied to practitioner pensionable earnings on 1 April. In contrast, the opening value of 1995/2008 Section benefits is uplifted by an earlier September's CPI amount.

4.6. For the 2022 to 2023 tax year, the September 2022 CPI of 10.1% is higher than it has been in recent years. This higher CPI will lead to high in-service revaluation of 2015 Scheme earned pension up to 31 March 2023. However, the CPI increase to the opening value of the NHSPS(S) pension in the PIA calculation is based on the lower value of CPI in September 2021 of 3.1%. This increases the risk of AA tax charges for 1995/2008 Scheme Practitioners and 2015 Scheme members for tax year 2022 to 2023 as a result of the higher inflation.

5. Proposals to change pension rules regarding inflation

5.1. The consultation proposed that a fairer approach to tackling this issue would be to amend sections 234 and 235 of the Finance Act 2004, which would have the advantage of simplicity and could also resolve other issues in relation to AA. The Scottish Government suggested that the UK government should give full consideration to delivering the changes in this way through primary legislation.

5.2. However, should changes to the Finance Act 2004 not be possible, the consultation proposed changes to the Public Service Pensions Revaluation Order 2023 in respect of the NHSPS(S). The proposal was to move the applicable date that is used for the yearly in-service revaluation in the 2015 Scheme, and uprating 1995/2008 Scheme Practitioner earnings, from 1 April to 6 April each year. Moving the date by five days means that the same CPI percentage rate would be used, meaning that the PIA calculation would only consider growth in pension savings of above inflation.

5.3. Changing the revaluation date would ensure that the AA operates largely as originally intended in relation to NHSP(S) pensions, and mean the high inflation environment would not create larger tax charges for senior clinicians on pension earned this year. This change would be effective from 6 April 2023

6. Consultation Process

6.1. These proposals were subject to public consultation which began on 22 December 2022 and closed on 16 February 2023. A consultation paper, [NHS Pension Scheme \(Scotland\): Retirement flexibilities and changes to pension rules regarding inflation](#) and response form were published on the SPPA website (www.pensions.gov.scot) with responses invited by way of response form, email or post to the SPPA. The larger NHS Trade Unions, a number of NHS employers and other interested parties were formally notified of the Consultation.

6.2. Prior to publication of the Consultation, SPPA worked with the NHSPS(S) Advisory Board (SAB) to consider the proposals. The SAB is a statutory board comprising trade union and employer representatives whose remit includes providing advice to Scottish Ministers on prospective changes to the NHSPS(S).

7. Summary of respondents

7.1. SPPA received 414 responses to the consultation. Responses were received from 405 individual scheme members, three employers, four trade unions/staff associations, and two other individuals.

7.2. The British Medical Association (BMA) provided their members with a template response to assist them in writing their consultation response. Approximately 350 responses were submitted using the BMA's template as a basis, with some of the respondents submitting additional commentary.

8. Summary of responses

8.1. SPPA is very grateful to those individuals and groups that took the time to respond to the consultation. The questions included in the consultation and a summary of responses received are set out in the following section:

Question 1 – Do you agree or disagree that the new retirement flexibilities should be introduced as proposed in this consultation document?

8.2. The table below provides a brief analysis of the responses received to the question and shows that the vast majority agree new retirement flexibilities are a positive addition to the scheme.

Responses	Percentage
Agree	98%
Disagree	2%
Do not Know / No Response	0%

8.3. Of the respondents who agreed, the common theme was that partial retirement was particularly welcome because it provides flexibility for members to

manage their retirement and return to work in the future if they wish to do so. In particular the proposal to allow members to access 100% of their 1995 Section benefits was widely welcomed. A considerable number of respondents using the BMA's template commented, that:

"As well as helping from a pension perspective, these proposals will help should I decide to partially retire and return to work in the future."

8.4. Partial retirement was also welcomed by respondents for its potential positive impact on NHS workforce capacity, with the Royal College of Nursing (RCN) commenting that:

"Retirement flexibility as a means of easing the current recruitment and retention crisis within thin NHS is welcome. However, it is important that such measures are not relied upon as a resolution to the workforce shortage crisis."

8.5. While partial retirement was roundly welcomed, respondents were negative about some aspects of that proposal. In particular the requirement for members to reduce their earnings by 10% in order to access partial retirement. Many respondents felt this requirement was unnecessary and would lead to members reducing their commitments at a time where NHS Scotland needs to maximise existing capacity. The BMA provided the following comment on the 10% reduction requirement:

"However, given the capacity issues in the NHS and record waiting lists, we do not believe that a 10% reduction in pensionable pay should be a requirement. As long as this requirement exists, we believe that in the majority of cases, this requirement will be met by reducing hours...Furthermore, given that this will prompt a discussion about working patterns, in many cases officer members may choose to reduce hours by more than 10%. Although in England, some employers have suggested mitigating this by splitting contracts to allow variable pensionable and non-pensionable elements, to date as far as we are aware no NHS Scotland employer has offered this option. Furthermore, for practitioner members, this requirement can only be met by reducing hours. We strongly believe this requirement to reduce pensionable pay should be removed."

8.6. A significant number of respondents raised the issue of timing of the introduction of partial retirement, highlighting that it should be implemented before summer 2023 and preferably from April which is noted as a peak month for retirements.

8.7. The BMA took the opportunity to highlight a potential issue with the introduction of partial retirement and its interaction with the McCloud remedy, commenting that members in scope for the McCloud remedy may be required to make the choice of whether they wish their remedy period membership to be in the legacy or the reformed scheme at the point of taking partial retirement. Highlighting that members will not know which option is better for them with

certainty until they fully retire. The BMA suggest that to mitigate this, affected members should be given the option to make their Remedy choice either at the point of partial retirement or when they fully retire from the pension scheme.

8.8. While supportive of the partial retirement proposals, NHS Ayrshire and Arran highlighted the potential for increased demand on SPPA from those wishing to access partial retirement and the need for clear communications around its introduction, commenting that:

“there could potentially be a significant increase in demand for SPPA in terms of both pension projections / quotes requests and indeed applications. We would suggest that perhaps there is a need to consider if the self-service portal for members can robustly support some of what may be a step change in demand following the changes made and whether there are any associated resource implications arising for SPPA in terms of workload so as there is no unintended consequence of increased lead in times for processing quotes or applications.”

8.9. A substantial number of respondents, who identified as younger members, commented that while they support the principle of partial retirement, it does nothing to help them at the moment deal with the impact of pension tax.

8.10. Respondents were also broadly supportive of proposals to introduce pensionable re-employment for members who retire with pension benefits from the 1995 Section of the scheme with little comment on that proposal. The British Dental Association (BDA) highlighted their assumption that:

“proposals to allow 1995 Section retirees to join the 2015 Scheme will not be limited to future retirees, after the date of implementation, but rather will be extended to all 1995 Section retirees.”

8.11. There was widespread support for the proposal to permanently remove the 16-hour rule. However, significant number of respondents went to on to make the point that abatement should be removed completely from the scheme removing barriers to SCS staff returning to the workforce.

8.12. A considerable number of respondents, including almost all of those who disagreed with these proposals, commented that these proposals did not tackle the impact of pension tax. Those individuals who used the BMA template commented that,

“These proposals are a missed opportunity to sort this problem out once and for all and its disingenuous to suggest that these mitigations will make any meaningful impact in terms of stopping doctors like me being left with little option but to reduce their hours. This will only exacerbate the huge waiting lists we have in the NHS.”

Question 2 - Do you agree or disagree that the changes to the pension rules regarding inflation should be implemented as proposed in this consultation document?

8.13. The table below provides a brief analysis of the responses received to the question and highlights that the vast majority of respondents did not agree that the changes should be implemented as per the proposals set out in the consultation.

Responses	Percentage
Agree	2%
Disagree	1%
Did not agree or disagree	97%

8.14. While a large majority of respondents were supportive of the proposal in principle and accept it will align the CPI values used for the in-service revaluation of the 2015 Scheme pension with that used as part of the PIA calculation, they did not agree that it should be done in this way. A large number of respondents, including those using the template response provided by the BMA, and the BMA themselves, highlighted their preference for amending the Finance Act 2004 as means to addressing this issue. This was set out in the consultation at the Scottish Government's preference. Members using the BMA template commented,

"As for UK Government moving the revaluation date for the CARE schemes from the 1st April to the 6th April, this will have the impact of aligning the CPI values being used from the 2023-24 tax year onwards. However, the correct solution would have been to correct the underlying problem which is the wording of the Finance Act as this would have been a more straightforward solution, and could have included corrective action to address negative growth and would have applied universally to all affected members. I am glad to see that Scottish Government are in agreement with this and fully support the notion"

8.15. A number of respondents expressed concern about unintended consequences of addressing this issue by moving the revaluation date.

8.16. A sizeable number of respondents also took the opportunity to highlight other issues with the operation of the AA tax calculation, highlighting the perceived unfairness that pension growth across the 1995/2008 schemes and the 2015 scheme is not considered together. Many BMA members highlighted that sub-inflationary pay awards mean that there will be negative growth in 1995/2008 pension, however, this negative growth is ignored under the tax rules and cannot be offset against positive growth in 2015 Scheme. The impact of this is that members may be forced to pay AA tax charges on pension growth in the 2015 Scheme if it exceeds the AA, even if the overall pension growth is well below the AA.

8.17. Respondents highlight that their preferred solution, through changes to the Finance Act, could also have addressed the issue of negative pension growth and allowed of aggregation of pension growth across the two schemes.

8.18. Of those respondents who expressly agreed with this proposal, most highlighted that it was a positive step which would reduce the likelihood that high earning NHS staff will face AA tax charges as a result of high inflation, which might otherwise lead them to reduce their commitments or seek early retirement. NHS Ayrshire and Arran commented:

"We agree with the proposals regarding inflation and taxation and specifically for high earning clinical staff, not in receipt of pension but still contributing, and see this as positive in mitigating the requirement for them to reduce hours / commitments so as not to breach their annual allowance thresholds. Again this provides a positive lever to addressing workforce capacity being experienced by Boards."

Question 3 – Are there any further considerations and evidence that you think the Scottish Government should take into account when assessing any equality issues arising as a result of the proposed changes?

8.19. This open question sought feedback on any further equality issues arising from these proposals. The majority of responses noted that the consultation recognised these proposals mainly benefit older members closer to retirement and that the proposals do not address the issues caused by pension tax rules impacting on younger members of the scheme. A BMA member highlighted,

"The consultation correctly acknowledges that if the retirement flexibilities are implemented it would be primarily older members who would benefit from them. Crucially, I do not believe that there is anything of significance here for younger members like me who are unable to retire or partially retire and are significantly impacted by annual allowance tax bills. We are being left with little option but to reduce hours even though our patients need us to do more."

8.20. The RCN commented on the impact on female members, highlighting that while pension flexibilities may benefit female members by providing an opportunity to increase pension benefit, members can only do so by working longer which represents a significant detriment compared with male colleagues.

8.21. The RCN also highlight equality concerns in respect of pension abatement and SCS, commenting that,

"Abatement rules disadvantage older workers and simultaneously have the effect of reducing both experiences levels and the available workforce. Equally, the removal of special class status arrangements subjects younger workers to a detriment. The RCN believes the remedy to be restoration of special class status and fully supports the removal of abatement rules."

9. Scottish Government Response

9.1. SPPA thanks all respondents for providing feedback on the consultation which has provided valuable insight from across the NHSPS(S) membership and interested stakeholders. On the whole, the proposals were well received from stakeholders and most respondents agreed they should be implemented.

Pensionable Re-employment

9.2. Therefore, **SPPA intends to proceed with implementing pensionable re-employment prospectively from 1 April 2023.** This means that pensioner members of the 1995 Section of the NHSPS(S) will be able to join the 2015 Scheme for future accrual. This prospective introduction is consistent with the way other changes to pension scheme rules and provisions are normally introduced.

9.3. Those members who wish to re-join the pension scheme for their re-employed post (including those 1995 Section pensioners who have already resumed employment after retirement and are not currently eligible to join the NHS Pension Scheme) will need to be made aware of this option to enable them to do so. SPPA will communicate this through employers via a circular and include information on the SPPA website.

Partial Retirement

9.4. **SPPA also intends to proceed with partial retirement proposals as set out in the consultation, with implementation from 1 October 2023.** This includes the requirement for members to reduce their pensionable pay by 10% in order to access this flexibility.

9.5. Many respondents disagreed with the 10% reduction requirement and felt it was unreasonable and would lead to members reducing their commitments. However, in order for staff to partially retire, SPPA consider that some reduction in working commitment is required, and as the NHSPS(S) records members' pensionable pay, this is a reasonable way of assessing if members are taking steps towards retirement. This is also how partial retirement operates for members of the 2008 Section and 2015 Scheme in the NHS, and similarly for members of other public sector pension schemes. This requirement will remain in place for the 12 months after members take partial retirement.

9.6. For consultants, it is expected the requirement to reduce pensionable pay will require a reduction in number of programmed activities (PAs). It is anticipated this requirement could be met through an agreement between the employer and the consultant to make some PAs non-pensionable. This would mean that consultants could continue to deliver the same amount of NHS work as before partial retirement if they wished, while meeting the requirement to reduce their pensionable pay.

9.7. Where members do not want to reduce their hours when they claim their pension, there is the alternative option to retire and return, with introduction of pensionable re-employment allowing the member to continue contributing towards a pension. However, this option does require staff to resign and the employer to agree re-employment. The terms of that re-employment offer are a matter for employers.

9.8. When members take partial retirement, because a break in employment is not required, members can retain the same contract, but when members retire and return, they must enter a new contract. Employers are encouraged to offer staff the same terms and conditions on this new contract should the member decide to retire and return, as this can encourage experienced staff to continue working if they want to claim their pension, and it could help to attract staff who have recently retired back to work.

9.9. A number of respondents, including an NHS employer, have highlighted that partial retirement could prove to be very popular and this may lead to a step change in terms of demand placed on SPPA. SPPA would therefore welcome more time to prepare for the introduction of these changes. Partial retirement will therefore be implemented from 1 October 2023, rather than from the summer as originally proposed. Members who wish to claim their 1995 Section pension before this date but want to continue building further pension benefits will be able to do so by making use of the proposal for pensionable re-employment from 1 April 2023.

9.10. Finally, it has also been highlighted this proposal may create issues for 1995 Section members who have a protected minimum pension age of 50. Because of the interaction between their pension benefits and tax regulations, if these members partially retire before age 55 and do not take 100% of their 1995 Section benefits this would be an unauthorised payment, incurring a tax charge for both the member and the scheme administrator. We are therefore proposing to slightly modify the proposal and require that these members must take 100% of their 1995 Section benefits if they choose to partially retire before age 55. 1995 Section members who also have pensionable service in the 2008 Section would therefore be unable to partially retire before age 55.

Removing the 16-hour rule

9.11. There was widespread support amongst respondents for this proposal, therefore, **SPPA will proceed to permanently remove the 16-hour rule with effect from 1 April 2023.**

9.12. A number of respondents called for the permanent removal of abatement rules for SCS members. SCS abatement was outside the scope of this consultation. The suspension of SCS abatement was recently extended to 31 March 2025.

9.13. Relating to the removal of the 16-hour rule, the proposal to remove Regulation R4(6) from the 1995 Section regulations will also be implemented from 1 April 2023. This means that the rules of the 1995 Section, 2008 Section and 2015 Scheme, will be aligned from this date.

Other proposed changes in relation to partial retirement

9.14. Respondents provided little comment on other proposed changes to NHSPS(S) regulations to support partial retirement.

9.15. The proposed change to allow members of the 2008 Section and 2015 Scheme to claim up to 100% of their pension benefits, rather than 80%, will be implemented from 1 October 2023. This means that when partial retirement for 1995 Section members is implemented on 1 October 2023, all the partial retirement provisions will be aligned across the 1995 Section, 2008 Section and 2015 Scheme.

9.16. The proposed correction to Regulation 85(3) in the 2015 Regulations will be implemented from 1 April 2023 and additional pension will not be subject to draw down abatement.

9.17. The proposal to allow members who are currently non-pensionable in the 1995 and 2008 Sections, because they have breached the maximum service limits, to join the 2015 Scheme will be implemented from 1 April 2023.

Proposals to change pension rules regarding inflation

9.18. While the majority of respondents did not agree with changing the revaluation date as a means to deal with the impact of high CPI inflation on AA calculations, the majority of respondents welcomed a solution to this issue. While the Scottish Government's preference was for the UK government to make changes to primary legislation through the Finance Act, this is not being proposed.

Therefore, we will change the revaluation date in the NHSPS(S) 2015 Regulations, and move the date that dynamising factors are applied to 1995/2008 Scheme practitioner earnings, from 1 April to 6 April from April 2023.

9.19. The application of dynamising factors in the 1995 and 2008 sections for practitioner members relies on the Pensions (Increase) Act 1971 and the Social Security Pensions Act 1975, to define the annual CPI increase figure. Therefore, it is considered that the application date can be changed without amendments to the 1995/2008 scheme regulations. We will therefore move the date that dynamising factors are applied to practitioner pensionable earnings in 1995/2008 Scheme, from 1 April to 6 April, from 6 April 2023, and all subsequent years. This is not a retrospective change, consequently any dynamising factors already applied to practitioner pensionable earnings in the 1995/2008 Scheme on 1 April, before 6 April 2023, will remain unchanged.

9.20. The 1995/2008 Scheme includes practitioner flexibilities which mean that practitioners are awarded the most favourable pension by allowing certain periods of officer service to be treated as though it were practitioner CARE benefits. As practitioner flexibilities are not part of the 2015 Scheme, any 1995/2008 Scheme flexibility rights are protected on moving to the 2015 Scheme, this is achieved by calculating an earnings credit ('the FVEC') which represents the value of the practitioner flexibilities in the 1995/2008 Scheme. We do not believe that changing the date that dynamising factors are applied will affect the calculation of an FVEC.

9.21. The tax year 2022 to 2023 will be a transitional tax year to facilitate the change in the scheme revaluation date from 1 April to 6 April. This means that for this tax year only the calculation of the pension input amount will be calculated using:

- the opening value benefits (calculated on 5 April 2022) that will include the in-service revaluation applied on 1 April 2022 to the accrued pension up to 31 March 2022
- the closing value benefits (calculated on 5 April 2023) that will exclude the in-service revaluation due to be applied on 6 April 2023 to the accrued pension up to 31 March 2023
- The in-service revaluation to accrued pension up to 31 March 2023 will instead be applied on 6 April 2023 and for active members will be included in the closing value benefits of the 2023 to 2024 tax year (calculated on 5 April 2024). This means that the in-service revaluation using a CPI of 10.1% will be in the same tax year that the opening value benefits (calculated on 5 April 2023) are uplifted by a CPI of 10.1%.

9.22. Members who retire during tax year 2022 to 2023 will receive the appropriate proportion of the in-service revaluation, known as the 'leaver index adjustment', on 6 April.

10. Equality Impact Assessment (EQIA)

10.1. The Public Sector Equality Duty ('PSED') was created by the Equality Act 2010 and is supported by the specific duties contained in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, as amended.

10.2. The PSED requires the Scottish Government to assess the impact of applying a proposed new, or revised, policy or practice. Scottish Ministers must have 'due regard' to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people with different protected characteristics when carrying out their activities.

10.3. An initial equality impact assessment was set out in the consultation document and respondents were asked to identify any further considerations and evidence which should be taken into account in the assessment of equality issues. Most respondents did not provide views in relation to PSED on the proposals

specifically. However, some respondents raised issues in relation to other areas of the policy.

10.4. The response received from the Royal College of Nursing (RCN) noted that while the new retirement flexibilities could benefit female members by providing an opportunity for them to increase their pension benefits, because these members can only do so by working longer, more work would be necessary to address the root cause of this. The RCN also stated in its response that the normal abatement rules and the closed nature of SC status could discriminate against staff on the basis of age. In order to remedy this, it suggested that the abatement rules should be permanently removed and SC status restored.

10.5. These issues are outside the scope of this consultation exercise but have been noted.

10.6. The PSED analysis remains as set out in the original consultation.

11. Conclusion

7.1. The SPPA thanks all respondents for providing feedback on the consultation, which has helped test the proposals and provided valuable insight from across the NHSPS(S) membership and interested stakeholders.

7.2. Overall, the proposed changes were well received and most of the respondents agreed that they should be implemented. SPPA therefore intends to proceed with the proposals.