



Scottish Public
Pensions Agency
Buidheann Peinnseanan
Poblach na h-Alba

***NHS Pension Scheme (Scotland):
changes to employer contribution
rates and miscellaneous
amendments from April 2024***

***Scottish Government consultation
2024***

Consultation Response

March 2024

1. Background

1.1. The National Health Service Pension Scheme (Scotland) [NHSPS(S)] continues to be an integral part of the remuneration package, and offers significant value in retirement, to people who have chosen to dedicate part, or all, of their careers to the NHS in Scotland. As a defined benefit pension scheme, it offers the security of a guaranteed income in every year of retirement for all its members.

1.2. The Scottish Public Pensions Agency (SPPA) continuously monitors the rules of the pension scheme to ensure it continues to help the NHS in Scotland attract and retain the staff needed to deliver high quality care for patients. The changes proposed in the consultation document were split into two sections:

1) Changes to the employer contribution rate from 1 April 2024

This section of the consultation outlined the changes to the employer contribution rate effective from 1 April 2024 as a result of the latest scheme valuation. The scheme valuation was carried out by the Government Actuary's Department (GAD) on behalf of the Scottish Government based on scheme data held as at March 2020.

The latest scheme valuation, the 2020 valuation, has been subject to consultation with the NHS Pension Scheme (Scotland) Advisory Board ('the SAB'). The SAB is made up of representatives of employers and members (trade unions) and provides advice to the Scottish Ministers on the desirability of changes to the design of the scheme and the implication of other policy issues.

2) Miscellaneous scheme amendments

This section of the consultation outlined a number of proposed miscellaneous scheme amendments that seek to deliver on the commitment to further staff recruitment and retention in NHS Scotland. These are:

- Removal of abatement provisions for special class status (SCS) members who return to work
- Changes to the pensionability of overtime for staff who work part-time
- Removal of maximum service limits for members wishing to partially retire
- Clarification of the use of salary sacrifice schemes to access partial retirement
- Abolition of Lifetime Allowance (LTA) scheme regulation changes
- Changes to the pensionability of Carer's Leave

2. Consultation Process

2.1. The proposals were subject to public consultation which ran for six weeks from 20 December 2023 and ended on 1 February 2024. A consultation document, [NHS Pension Scheme \(Scotland\): Employer contribution rate changes and miscellaneous amendments](#) and response form were published on www.pensions.gov.scot with responses invited by way of a response form returned via email or post to the SPPA.

2.2. NHS Trade Unions, NHS employers and other interested parties were formally notified of the Consultation process.

2.3. A total of 8 consultation responses were submitted to SPPA, with 3 received from scheme members and 4 received from trade unions and staff associations. 1 response was invalid as it related to a previous consultation.

3. Summary of proposals

3.1. The following is a summary of the proposals which were outlined in the consultation document.

1) Increase to the employer contribution rate from April 2024

3.2. The 2020 valuation confirmed that an increase in the employer contribution rate from its current rate of 20.9%, that has been in force since 1 April 2019, following the 2016 valuation, to 22.5% is required from 1 April 2024.

3.3. The 2020 valuation sets the new employer contribution rate for the period 1 April 2024 to 31 March 2027.

3.4. Subsequently, we proposed to amend the 2015 regulations to replace the current employer contribution rate with the new rate of 22.5% effective from 1 April 2024.

2) Miscellaneous scheme amendments

(i) Changes to abatement for pensions for Special Class Status (SCS) members who return to work

3.5. In line with our commitment to staff retention, it was proposed to amend the NHS Superannuation Scheme (Scotland) Regulations 2011 to permanently remove the SCS abatement mechanism as part of the planned statutory instrument in April 2024. This amendment will permanently remove SCS abatement from scheme regulations.

3.6. It is also important to note that SCS abatement applies only to a small and reducing cohort of members who qualify for SCS. In order to be affected by the

proposal to permanently remove abatement, members must qualify for SCS and be below age 60 from 1 April 2025.

(ii) Changes to pensionability of overtime for staff who work part-time

3.7. From 1 October 2023, the Scottish Government introduced a new partial retirement option for members of the 1995 Section of the NHSPS(S). This facility allows members to partially retire and claim up to 100% of their 1995 Section benefits while continuing to work and accrue further pension in the 2015 Scheme.

3.8. It is proposed that the scheme regulations are to be retrospectively amended to provide a definition of “overtime” which confirms that any overtime or additional hours worked by employees within their first 12 months of taking partial retirement is non-pensionable. This includes all additional work above members contracted hours.

3.9. This facility will allow members, with the agreement of their employer, to take partial retirement without reducing their overall working commitments or take-home pay. This is done by reducing their contracted hours by at least 10 per cent following a partial retirement election and continuing to work additional sessions up to 100 per cent as non-pensionable overtime.

(iii) Removal of maximum service limits for members wishing to partially retire

3.10. In line with the removal of maximum service limits from 1 April 2023, which allowed for 1995 pensioner members who had previously breached these limits to re-join the scheme upon returning to work and to complete the package of retirement flexibilities, it is proposed to amend scheme regulations to make the existing partial retirement options also available to members of the 1995 Section who have breached the maximum service limits. However, the age limit for 2015 Scheme membership (age 75) will still apply as normal.

3.11. It was therefore proposed to amend the 1995 Section regulations to allow maximum service members to access partial retirement from 1 April 2024.

(iv) Clarification of the use of salary sacrifice schemes to access partial retirement

3.12. Where members enter into a salary sacrifice arrangement, under the rules of the scheme their pensionable pay reduces. However, we do not believe that salary sacrifice is an appropriate way of accessing partial retirement, as it does not require any change to a member’s working commitment.

3.13. To provide clarity, it was proposed to amend the regulations to state that entering into a salary sacrifice arrangement does not qualify as an eligible change

to the terms of employment for the purpose of pursuing partial retirement. This proposed change is intended to be effective from 1 April 2024.

(v) Abolition of the lifetime allowance (LTA)

3.14. At the UK Spring Budget on 15 March 2023 the UK Government announced the abolition of Lifetime Allowance (LTA) pension tax rules. This announcement removed the LTA charge from the start of the new tax year on 6 April 2023 and committed to fully abolishing the LTA in a future Finance Bill.

3.15. Consequently, it was proposed to make consequential amendments to the 1995, 2008, 2015 and Transitional scheme. These amendments will update relevant definitions or terminology and preserve existing provisions relating to the lifetime allowance to the extent that they apply prior to abolition. The intention is to ensure the smooth operation of legacy and any future lifetime allowance requirements post-abolition.

(vi) Pensionability of carer's leave

3.16. It was proposed to make amendments to NHSPS(S) regulations to insert a deeming provision for members who take unpaid carer's leave. The deeming provision will ensure that members who take carer's leave will continue to accrue pension membership during the time that they are absent from work. During the period of carer's leave, the employer will continue to pay contributions based on the member's substantive pensionable pay (their deemed pay), and the member will pay any owed member contributions upon their return to work.

3.17. The proposed treatment of carer's leave is consistent with the existing approach to other authorised absences from work, some of which may be unpaid, such as maternity leave.

4. Increase to the employer contribution rate from April 2024

4.1. 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.

4.2. The consultation asked for respondents to provide any further comments they may have in relation to the proposed increase to the employer contribution rate from April 2024:

“Q1. If you have any further comments on the proposed increase to the employer contribution rate from 1 April 2024, please outline them.

4.3. Firstly, of the 3 scheme members who responded to the consultation, two of the members did not provide any further comment on the proposed increase to the

employer contribution rate from 1 April 2024. The other scheme member respondent commented that:

“It is important that there is a clear and realistic process for ensuring that the scheme is viable”.

4.4. Furthermore, The British Dental Association (BDA) commented that they felt more clarity was necessary on the extent to which the increase in employer contribution rate from 1 April 2024 will be funded and which organisations may fall outside the remit of the central funding:

“The proposed increase is clear; however, SPPA have not provided clarity on the extent to which this will be funded, either in the consultation or in the circular to employers. It seems very much like Scottish Government are deferring any announcement on this until Barnett amounts are confirmed.”

Furthermore, SPPA has not confirmed which organisations might fall outside the remit of being centrally funded. This is unlikely to provide any assurance, confidence or firm planning foundations for scheme employers”.

4.5. Meanwhile, The British Medical Association (BMA) expressed the following comments noting that the net surplus cashflow returned to HM Treasury will increase because of the higher employer contribution rate:

“We would note that following the last increase in employers' pension contributions by 6.3%, the impact of this was that the net surplus (once pensions in payment were deducted) returning to HM Treasury increased by a broadly similar amount. It is highly likely that the net surplus will increase further as a result of this change.”

4.6. In their response to the consultation document, The Royal College of Podiatry (RCPOD) requested that:

“A full explanation on how the cost increase will work and how the yield of 9.8% was reached.”

Scottish Government Response

4.7. The Scottish Government shares the view of the scheme member respondent which emphasised the importance of a clear and realistic process for ensuring that the scheme is viable. The Public Service Pensions Act 2013 introduced the legal framework for regular actuarial valuations of the public service pension schemes. Each round of valuation follows updated HM Treasury directions provided for in regulations and are carried out by the Government Actuary's Department (GAD) on behalf of the Scottish Government, based on scheme data held as at March of the relevant year. This robust statutory process that is undertaken every four years

effectively measures the costs of the benefits being provided to the NHSPS(S) and thus ensures that there is a clear process for ensuring the schemes viability.

4.8. In relation to the funding for the increase in employer contribution rates, as outlined in the consultation document, the Chief Secretary to the Treasury's statement confirmed that the UK Government will provide funding for increases in employer contribution rates resulting from the 2020 valuations as a consequence of changes to the SCAPE discount rate. For the NHS Pension Scheme (Scotland) valuation the full 1.6% increase is a consequence of these SCAPE discount rate changes. The funding commitment is for employers whose employment costs are centrally funded through departmental expenditure. HMT has confirmed that, for devolved administrations, the Barnett formula will apply. Therefore, Scottish Ministers will make decisions on funding allocations once Barnett consequential amounts are confirmed. We understand the uncertainty this may cause for some employers at present and thank them for their continued patience while we await confirmation of the Barnett consequential amounts being confirmed by the UK Government.

4.9. The Scottish Government notes the BMA comments that the net surplus cashflow returned to HM Treasury will increase because of the higher employer contribution rate. We would like to reiterate that the scheme is an unfunded statutory public service pension scheme with the benefits underwritten by the Exchequer. The scheme is financed by current employers and employees who are members of the scheme, and the overall rate of pension contributions is set following an actuarial valuation and is intended to cover the true cost of accruing future benefits, ensuring fairness to the member, employer and taxpayer. As part of an actuarial valuation, GAD estimate the contributions required to cover the cost of benefits being accrued or earned in each year going forward. As such, it is not expected, or intended, that the contributions being paid into the scheme in any given year, will equal the benefits being paid out of the scheme in that year. Therefore, it can be stated that the valuation approach strives to ensure current employers are paying a fair contribution for the benefits being built up.

4.10. Subsequently, as confirmed in the 2020 valuation, The Scottish Government will implement the increase to the employer contribution from its current rate of 20.9% to 22.5% effective from 1 April 2024.

5. Miscellaneous scheme amendments

I. Changes to abatement for pensions for Special Class Status (SCS) members who return to work

5.1. The consultation asked the following question in relation to the changes to abatement for pensions for SCS members who return to work:

Q2. Do you agree or disagree that the proposal, as described above, to amend NHS Pension Scheme (Scotland) regulations would have the intended effect of permanently removing abatement for SCS members? If you disagree or don't know please explain your answer

5.2. One of the scheme member respondents was supportive of the proposal as a way to address workforce shortages and demand issues and commented that:

"I agree completely for those staff to be encouraged to work as much as they can for the service, which we desperately need for workforce shortages and demand reasons".

5.3. While it has been noted that all respondents did agree to these proposals in principle, BDA did outline the importance of the statutory regulatory amendments and noted that:

"The proposal would on the face of it, seem to have the effect of removing abatement for Special Class members. However, it is important that the consequent regulatory amendments are effective in delivering this intended policy change".

Scottish Government Response

5.4. The Scottish Government is pleased that the proposal to permanently remove abatement for Special Class Status members returning to work has been widely welcomed.

5.5. As there was no substantial consensus against the proposed permanent removal of abatement for Special Class Status members, the proposals will be taken forward as set out in the consultation document.

II. Changes to pensionability of overtime for staff who work part-time

5.6. The consultation document asked the following question in relation to the changes to pensionability of overtime for staff who work part-time:

Q3. Do you agree or disagree with the proposal to amend the definition of overtime to allow staff who work part-time to pension additional income up to whole time, with limitations where members have partially retired in the previous 12 months? If you disagree or don't know please explain your answer.

5.7. The vast majority of trade union representative responses agreed in principle with the proposals regarding the changes to the pensionability of overtime for staff who work part-time as outlined in the consultation document. However, some responses outlined that they do not agree that the pensionability of overtime should be limited to whole-time equivalent hours. BMA stated that:

“Across the NHS many groups of workers do regular overtime that is paid consistently in monthly pay periods. For example, consultants and SAS doctors regularly undertake additional programmed activities (PAs) which are typically part of an additional contract, and these require 3 months’ notice in order before such activity can be ceased. It is unclear why such regular payments are not considered to be pensionable, and we note that in other schemes regular overtime payments are considered to be pensionable and that there have been legal judgements supporting that principle.”

5.8. Unison also echoed this sentiment:

“Little consideration appears to have been given to the reality that for some part time workers, working beyond contracted hours is not voluntary. Obvious examples are ambulance staff out on calls, or NHS 24 call handlers who can’t stop working merely because they are technically at the end of the shift. In some instances these ‘over runs’ can be quite significant and these members would now be faced with being paid less for compulsory additional hours worked.”

5.9. RCPD also highlighted the importance of a clear communication strategy when implementing this proposal:

“There needs to be a clear communication strategy on this to explain to members what is meant by overtime in the context of pensionable pay and overtime in the context of pay”

5.10. Meanwhile, the BDA stated that they believed all members should have the flexible option to pension any pay in excess of their normal contractual earnings as well as an option to treat overtime as non-pensionable.

5.11. The BMA also took the opportunity to express concerns about the requirement to reduce pensionable pay by at least 10% for 12 months when taking partial retirement. They also highlighted that it has been problematic to administer, and many people have so far been unable to take up partial retirement. However, given that the 10% rule exists, the BMA supported the proposal to amend scheme regulations to prevent overtime payments being automatically pensionable for the first 12 months following partial retirement. They asked that the option of recycling the full value of the employer’s pension contribution be made available to those forced to reduce their pensionable pay by 10% to meet the requirement.

Scottish Government Response

5.12. The Scottish Government welcomes that all scheme member respondents agreed with the proposal to amend the definition of overtime to allow staff who work part-time to pension additional income up to whole time, with limitation where members have partially retired in the previous 12 months.

5.13. The Scottish Government also recognise the general support for aligning the definitions of overtime from trade union representative respondents. However, we note that BMA, BDA and Unison's concerns that the pensionability of overtime will be limited to whole-time equivalent hours and believe members should instead have the option of pensioning regular overtime in excess of their normal contractual earnings.

5.14. The Scottish Government do not agree with this suggested option as this would represent a new and substantial additional cost to employers. There is also a significant past service cost risk in relation to final salary benefits accrued in the legacy 1995 and 2008 Sections. Members close to retirement would be able to optionally work large amounts of overtime with a view to boosting their final salary pension upon retirement. However, the amount of contributions paid on that overtime would be very modest compared to the long-term cost of paying out the extra pension. Where there is 1995 Section membership, this additional cost would be recouped from employers through final pay control charges, further increasing costs for employers. The BMA contrasted the position with general medical practitioner members for whom all income is pensionable and suggested that the different position for employed members (officers) is an anomaly. We disagree with this view and point to practitioner members being typically self-employed where there is no concept of overtime.

5.15. The Scottish Government agree with the observations made by the Royal College of Podiatry (RCPOD) on the need for a clear communications strategy to support implementation of this proposal. That is why SPPA recently issued [Circular 2024/02](#) to employers that clearly communicated the changes to the pensionability of overtime for part-time staff. This circular also included an updated [Flexible Retirement Employer Guidance](#) that details the requirements for members to be eligible to take partial retirement, outlining that the scheme regulations are being retrospectively amended to provide a definition of "overtime" which confirms that any overtime or additional hours worked by employees within their first 12 months of taking partial retirement is non-pensionable. This includes all additional work above their contracted hours. This facility allows members, with the agreement of their employer, to take partial retirement without reducing their overall working commitments or take-home pay. Therefore, the Scottish Government believes the SPPA has put into action a robust communication strategy that will provide members of the scheme and employers with clear guidance surrounding the meaning and pensionability of overtime in the NHS Pension Scheme (Scotland).

5.16. We also have considered BMA's questioning of the need for the 10% reduction in pensionable pay requirement to access partial retirement. The purpose of the partial retirement policy is to facilitate a step down in hours or responsibilities, phasing towards full retirement for members and increase flexibility in retirement. It is a voluntary option, and we would expect staff who take partial retirement to maintain their new, reduced scope of pensionable work as agreed with their employer for a minimum of 12-months. However, we do recognise the demands of

NHS Scotland service provision. The vast majority of the NHS Scotland workforce perform shifts or sessions, and an employer may ask willing staff to do occasional extra ones to address temporary pressures - for example covering rota gaps where staff are unwell or have left. We would not want the potential suspension of their pension to rule out the possibility of partially retired staff from responding to help out their employer with short-term, temporary swings in work. It is for this reason that we proposed making additional hours worked above their core contract by partial retirees non-pensionable for the 12-month period. After the 12-month period, those additional hours would be pensionable in the same way as for all other members. If during the 12-month period, partially retired staff change their mind about the number of core pensionable hours they wish to work, then a further change of employment terms can be agreed with their employer to increase their core working hours or programmed activities, and therefore their pensionable earnings up to the 90% limit required by the partial retirement criteria.

5.17. Further to this, the design of the partial retirement option for the NHS in Scotland must have coherence with how other public service pension schemes approach partial retirement for their sectors, where a reduction in pensionable pay is also required. We do not intend to remove the 10% requirement as it signals that there has been a genuine change in working arrangements.

5.18. We also note BMA's calls for employer contribution recycling in relation to the 10% reduction in pensionable pay. However, we are unconvinced by this proposal. The scheme regulations do not force anyone to take partial retirement. If a member wishes to draw their pension and resume NHS work without a 10% reduction in pensionable pay then a retire and return arrangement is likely to be more appropriate, given the 'wind down' intention behind partial retirement.

5.19. Therefore, we intend to proceed with the proposal of amending the definition of overtime for part-time members, effective from 1 April 2024.

III. Removal of max service limits for members who wish to partially retire

5.20. The consultation document asked the following in relation to maximum service changes for members wishing to partially retire:

Q4. Please provide any further comments on the proposal to make the partial retirement option available to members of the 1995 Section who have breached the maximum service limits.

5.21. Of the 3 scheme members respondents received, one member provided no further comments to the proposal highlighted above. The other two scheme members outlined their approval of this proposal with one member noting that:

"This seems to be fair approach which provides equality regardless of age or retirement date."

5.22. We also welcome that all trade union representatives agreed with the principles of the proposal to remove maximum service limits for members who wish to access partial retirement. However, Unison did raise some concerns around the limit to scheme membership being set at 75 years:

“We do have some concerns as the limit to scheme membership is age 75. Is this an appropriate age? A situation where members are paying in pension contributions until a late age if they will not receive the benefits in retirement is less than ideal. Providing for equality purposes a defensible rationale for the specific age limit would be a useful exercise.”

Scottish Government Response

5.23. The Scottish Government welcomes the positive feedback received to this proposal to allow members who have breached maximum service limits in the 1995 section of the scheme access partial retirement.

5.24. Therefore, we will proceed to lay regulations that implement the change from 1 April 2024. While we expect few members of the 2008 Section will have reached maximum service, the existing provisions that allow non-pensionable members of that section to take partial retirement will also be updated so that the option is available to such members who are also active members of the 2015 Scheme. This will ensure that partial retirement provisions work consistently across both schemes so that all members accessing partial retirement will be required to have an appropriate reduction in their pensionable earnings in the 2015 Scheme.

5.25. However, The Scottish Government notes Unison’s concerns regarding the age limit to access the pension scheme being set at aged 75. The NHS Pension Scheme (Scotland) Regulations 2015 introduced an age limit of 75 primarily to align with the increasing retirement age in the UK and to ensure sustainability of the pension scheme. As life expectancy has been rising, pension schemes often adjust their policies to reflect this trend and ensure that pension benefits remain financially viable for the system. Increasing the retirement age helps to balance the number of years people receive pension benefits with the contributions they make during their working years.

5.26. Another rationale for the age limit of the pension scheme being set to aged 75 is the increased complexity of tax treatment for pension contributions and withdrawals after someone reaches this age. For example, tax legislation in the UK provides that any withdrawals you make from your pension pot after age 75 are subject to income tax. This means that pension income is added to other sources of income, such as wages or investment income, and taxed accordingly. Furthermore, although there is no tax legislation requiring benefits to come into payment when the member reaches age 75, the tax legislation of the Finance Act 2004 (Section 188) in relation to a relievable pension contribution which is defined as a contribution paid to a registered pension scheme by or on behalf of a member of that scheme. Section 188 (3)(a) of the Finance Act 2004 provides that although

contributions can be paid after a member has reached the age of 75, they are not relievable pension contributions and cannot qualify for tax relief.

(iv) Clarification of the use of salary sacrifice schemes to access partial retirement

5.27. The consultation document asked the following question in relation to the proposal to clarify the use of salary sacrifice schemes to access partial retirement:

Q5. Do you agree or disagree with the proposal to clarify the partial retirement regulations to expressly exclude access to this option via entering into a salary sacrifice arrangement?

5.28. Table 1 below provides a brief analysis of the responses received to the proposal as set out in the consultation document and shows that the feedback is fairly evenly split between those who agree and those who disagree with the proposal.

Table 1

Responses	Percentage
Agree	43%
Disagree	43%
Do not Know / No Response	14%

5.29. On the one hand, all 3 scheme member respondents agreed in principle with the proposals to expressly exclude salary sacrifice schemes as a means to accessing partial retirement through a 10% reduction in pensionable pay. One member noted that:

“Accept the principle that partial retirement should involve a reduction in work commitment and therefore salary sacrifice would not be an appropriate way of achieving this goal. Reducing pay by a reduction in responsibility and/or working hours does seem to be appropriate for meeting the goals of partial retirement.”

5.30. However, on the other hand, the vast majority of trade union representative responses did not agree with the proposals.

5.31. BMA and BDA echoed similar sentiment in their responses in which they regarded the requirement to reduce pensionable pay by 10% as an unnecessary measure and as such there should be significant flexibility in the ways in which members can achieve this, including with the use of a salary sacrifice arrangement with the BDA noting that:

“BDA does not agree that the 10% requirement is necessary and is presenting an administrative burden on employers and members. In that context we would not wish to see salary sacrifice arrangements excluded from being a valid mechanism of meeting this. The delay in implementing this change suggests that salary sacrifice

arrangements entered into before April 2024 will offer a legitimate means to achieve the 10% reduction.”

5.32. The BMA also noted that:

“There has been clear confusion and inconsistent approaches to this by NHS Boards across Scotland causing a great deal of confusion and distress for staff trying to make their retirement plans. Whilst we recognise that the Scottish Government is not consulting again on the requirement of a 10% reduction, we feel it is important to highlight that this remains unfair and hugely problematic to administer. This challenge is even greater for practitioner members as it is difficult to define the reduction and we urge the Scottish Government to lobby the Treasury to scrap this requirement entirely.”

5.33. Unison also stated their disagreement for the proposal and emphasised:

“We think that there should be a maximum choice available to scheme contributors.”

5.34. Meanwhile the RCPOD echoed this sentiment:

“We disagree. We think that there should be a maximum choice available to scheme contributors.”

Scottish Government Response

5.35. The Scottish Government welcomes the support from the scheme member respondents regarding the proposal to exclude salary sacrifice arrangements as a means to access the partial retirement option. We particularly agree with one member’s recognition that individuals should be taking steps to phase towards retirement when they elect to partially retire.

5.36. As set out in relation to the proposed amendments to the definition of overtime, we expect those who take partial retirement to meet the required reduction in pensionable pay through genuine changes in their working arrangements, for example, a redesign of job role or fewer hours in their current position. Therefore, using a salary sacrifice arrangement to achieve the required 10% reduction in pensionable pay would not be in the spirit of the regulations.

5.37. It must also be noted that salary sacrifice arrangements are voluntary and the effect on pensionable pay is clearly stated in scheme literature. There is a saving to individuals on their income tax and pension contributions which are not payable on the sacrificed pay. The tax changes announced at Budget 2023, specifically the 50% increase to the annual allowance to £60,000 and allowing the offset of negative pension input amounts, creates more headroom and carry forward of any unused allowance from previous tax years to accommodate the annual allowance implication of spikes in pension growth when salary sacrifice arrangements end.

The Scottish Government disagrees with the view that it is inconsistent and unfair to consider such arrangements as reducing pensionable pay for benefit accrual purposes but not contributing towards the 10% reduction for partial retirement. There are different purposes in play - for partial retirement a reduction in pensionable pay is a measurable proxy for a change in work commitments signalling a phasing towards retirement.

5.38. The Scottish Government will therefore proceed to lay regulations that implement the change from 1 April 2024.

(v) Abolition of Lifetime Allowance (LTA)

5.39. The consultation document asked the following question in relation to the abolition of the LTA as announced at the UK Spring Budget on 15 March 2024 by the UK Government:

Q6. Do you agree or disagree that the proposal to amend NHS Pension Scheme (Scotland) regulations has the intended effect of removing reference to the lifetime allowance? If you disagree or don't know, please explain why.

5.40. We welcome that all respondents agreed to the proposals set out in the consultation document that sought to make consequential amendments to the 1995, 2008, 2015 and Transitional scheme regulations in order to update relevant definitions or terminology and preserve existing provisions relating to the lifetime allowance to the extent that they apply prior to abolition.

5.41. However, Unison did emphasise the following surrounding the effect these proposals will have on their specific membership cohort:

"This proposed change will benefit those higher earners within the NHS and is therefore likely to have little positive impact on the majority of UNISON members."

Scottish Government Response

5.42. While we understand the point made in the Unison response, the changes to remove the LTA have been made in primary legislation by the UK Government. The changes to the NHSPS(S) being consulted on are consequential changes which require to be made in response to changes to primary legislation.

5.43. As there was no substantial consensus against the proposal to amend NHSPS(S) regulations to have the intended effect of removing reference to the

lifetime allowance, the proposals will be taken forward as set out in the consultation document.

(vi) Carer's Leave

5.44. The consultation document asked the following question regarding proposals to make amendments to the NHSPS(S) regulations to ensure members who take carer's leave will continue to accrue pension membership while they are absent from work:

Q7. Do you agree or disagree with the proposals to make consequential amendments to NHSPS(S) regulations to provide a deemed pay figure to members who take unpaid carer's leave? If you disagree or don't know, please explain why."

5.45. Of the 3 scheme members who responded to the consultation, two were supportive of this proposal with one member commenting that:

"Bringing this into alignment with other authorised absences from work seems fair".

5.46. However, one scheme member respondent had mixed views on Carer's Leave in general and stated:

"I disagree with this – I think your pensionable hours are those you work in your contracted role for and therefore you up to one week off per year of informal carers leave should not be pensionable."

5.47. All trade union representatives who responded to the consultation document agreed with the principles and intention of the proposal. However, BDA commented that:

"We do agree with the proposal to allow Carer's leave to be pensionable. However, we would wish to see Members have options to forego this, if they feel that contribution levels from deemed pay are unaffordable."

Scottish Government Response

5.48. The Scottish Government welcomes the positive support for this proposal. As there was no substantial consensus against the proposal to amend NHSPS(S) regulations to have the intended effect of removing reference to the lifetime allowance, the proposals will be taken forward as set out in the consultation

document and will proceed to lay regulations that implement the change from 1 April 2024.

5.49. The Scottish Government does note the comments and concerns received by one scheme member respondent. However, as the consultation document sets out, this proposal seeks to ensure the treatment of carer's leave is consistent with the existing approach to other authorised absences from work, some of which may be unpaid, such as maternity leave.

5.50. Furthermore, The Scottish Government notes the BDA's calls for the members to have options to forego the contribution payments if they deem it unaffordable while on this type of unpaid special leave. However, provisions are already in place within the NHSPS(S) Regulations regarding unpaid special leave, such as maternity leave, which ensure that members who take carer's leave will continue to accrue pension membership during the time that they are absent from work. During the period of unpaid leave, the employer will continue to pay contributions based on the member's substantive pensionable pay (their deemed pay), however, the member will pay any owed member contributions upon their return to work.

5.51. The proposal outlined in the consultation document will seek to amend these regulations to include unpaid carer's leave within the existing approach outlined above for other authorised unpaid absences from work. Aligning unpaid Carer's Leave with other authorised unpaid absences will ensure members who are on unpaid leave due to caring responsibilities will not have to pay contributions until they are back at work earning a pensionable income. Therefore, this ensures members are not financially jeopardised as a result of having to take time away from the workplace to care for dependents with long-term care needs, while also ensuring they do not miss out on the valuable employer contribution to their pension savings.

6. Conclusion

6.1 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.

6.2 The SPPA has consulted those who appear likely to be affected by the proposed changes to regulations with a view of reaching agreement.

6.3. Therefore, the SPPA intends to proceed with the proposals to amend scheme regulations with the following effect from 1 April 2024:

- implement a new employer contribution rate of 22.5%
- amend the definition of overtime to provide that additional hours worked by members up to full time are pensionable, except where a member has taken partial retirement in the preceding 12 month

- remove permanently the pension abatement rules that apply to members who retired early using special class rights
- allow 1995 Section members who have reached maximum pensionable service to take partial retirement
- confirm that the reduction in pensionable pay required to take partial retirement cannot be met by entering into a salary sacrifice arrangement
- make essential changes to ensure existing scheme rules continue to operate as intended and accommodate requirements arising from new legislation that abolishes the lifetime allowance
- recognise periods of carer's leave as an authorised absence from work and treat in the same way as other periods of unpaid authorised absences

6.4. The Scottish Government will now proceed to lay before the Scottish Parliament a statutory instrument that will amend scheme regulations to give effect to the changes as confirmed in this document. The SPPA as scheme administrator will write to all members informing them of the changes.