

## EXECUTIVE NOTE

### THE NATIONAL HEALTH SERVICE (SUPERANNUATION SCHEME, PENSION SCHEME, INJURY BENEFITS AND ADDITIONAL VOLUNTARY CONTRIBUTIONS) (SCOTLAND) AMENDMENT REGULATIONS 2010

#### SSI 2010/ 22

1. The above instrument is made in exercise of the powers conferred by sections 10 and 12 of, and Schedule 3 to, the Superannuation Act 1972. These powers, so far as within devolved competence have been transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750). The instrument is subject to the negative resolution procedure.
2. These Regulations amend the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (“the 1995 Section of the scheme”), the National Health Service Pension Scheme (Scotland) Regulations 2008 (“the 2008 Section of the scheme”), the National Health Service (Scotland) (Injury Benefits) Regulations 1998 (“the Injury Benefits Regulations”) and the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998 (“the AVC Regulations”).

#### Background

3. The main aim of these Regulations is to allow eligible members of the 1995 Section of the NHS Pension Scheme in Scotland (“the Scheme”) (those with a protected Normal Pension Age (NPA) of 60 or 55) to choose whether to transfer all their service to the 2008 Section or to remain a member of the 1995 Section of the Scheme. These Regulations also:
  - introduce a refinement to the calculation of benefits where a practitioner is entitled to both career average and final salary benefits;
  - makes various miscellaneous amendments to clarify the working of certain scheme regulations; and
  - makes technical changes to terminology to clarify that there is one NHS Pension Scheme that comprises two Sections.

#### Policy Objectives

- 4.1 Following a review of the Scheme by SPensiR<sup>1</sup> a new Section of the Scheme was introduced for new entrant NHS staff with effect from 1 April 2008. Key features of the new “2008 Section” are:
  - a normal retirement age of 65;
  - a pension equal to 1/60<sup>th</sup> of final pay for each year of membership or a pension based on 1.87% of career average earnings for self-employed general medical and dental practitioners;
  - more flexible retirement i.e. ability to take part pension and continue working and
  - an option to exchange pension for lump sum.

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<sup>1</sup> SPensiR (now the Scottish NHS Pensions Group) is a partnership between employers, trade unions/ professional organisations for the NHS in Scotland and the Scottish Government

4.2 Existing members of the Scheme at 1 April 2008 retained access to the “1995 Section” of the Scheme. Key features of the 1995 Section are:

- a normal retirement age of 60;
- a pension equal to 1/80<sup>th</sup> of final pay for each year of membership, or a pension based on 1.4% of career average earnings for self-employed general medical and dental practitioners; and
- a fixed (three times pension) lump sum.

4.3 Included in the formal agreement to the reforms was a recommendation that, subject to certain transitional arrangements, eligible members of the 1995 Section of the Scheme should be offered a choice to transfer past and future service to the 2008 Section. This choice to move to the 2008 Section of the Scheme will be extended to members who are active in the 1995 Section on or after 1 October 2009. The SPPA will run an exercise in early 2010 whereby all eligible members will be sent individual packs which will set out their current benefits and an estimate of those in the 2008 section if they choose to move. Members will have four months from the date their pack is sent to opt to move to the 2008 Section if they consider that this would be more beneficial to them. Those that move to the 2008 Section will be known as “2008 Optants” and specific arrangements will apply to this group.

4.4 Two new Chapters have therefore been inserted into the 2008 Regulations by this instrument which contain specific provisions covering the choice 1995 Section members will have and the transitional arrangements for such members who decide to move all their benefits to the 2008 Section. Other amendments have been made in existing regulations as a consequence of these new sections.

4.5 Another change unrelated to the choice exercise is for the calculation of mixed final salary and career average benefits for practitioner members. Benefits are provided for general practitioners based on a percentage of their uprated earnings throughout their time in practice. However, most general practitioners also accrue benefits on a final salary basis as the result of work undertaken in a hospital setting. The current regulations make specific provisions for the calculation of final retirement benefits in these circumstances to ensure that moves between the final salary and career average regimes, in otherwise unbroken membership, do not devalue the benefits for earlier periods of membership. The amendments contained in this instrument supplement those provisions by enhancing the indexation of final salary benefits in certain circumstances.

4.6 A number of miscellaneous and technical amendments are included so that it is easier to differentiate between the 1995 and the 2008 Regulations. References have been changed throughout both sets of Regulations so that they refer to the 1995 Section and the 2008 Section of the Scheme.

4.7 This amending instrument also makes minor consequential changes to the National Health Service (Scotland) (Injury Benefits) Regulations 1998 and the National Health Service Superannuation Scheme (Additional Voluntary Contributions) (Scotland) Regulations 1998.

### **Sensitivity**

5. The Regulations are not contentious.

### **Consultation**

6. These Regulations have been the subject of consultation with representatives of NHS employers and employees, other Scottish Government interests and UK Government departments and have incorporated any suggested changes which were appropriate.

### **Financial Implications**

7. No Regulatory Impact Assessment has been prepared because no impact on the private or voluntary sector is foreseen

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