EXPLANATORY MEMORANDUM TO

THE NATIONAL HEALTH SERVICE PENSION SCHEME AND INJURY BENEFITS (AMENDMENT) REGULATIONS 2012

2012 No. 610

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument amends three statutory instruments relating to pensions and benefits provided for National Health Service staff.

2.2 The main purpose of the instrument is to implement increases to member contribution rates from 1 April 2012.

2.3 The instrument also makes changes that are a consequence of changes made by the Finance Act 2011 and the introduction of the Isle of Man Government Unified Scheme.

3. Matters of special interest to the Joint Committee on Statutory Instruments

Section 12(1) of the Superannuation Act 1972 confers a power to make regulations having effect from a date earlier than the date of their making. Regulations 7(c) (in respect of the insertion of paragraphs (15) and (16) into regulation T2A) and 10(b) have retrospective effect from 6 April 2011. Regulations 7(c) (in respect of the insertion of paragraphs (12) to (14) into regulation T2A), 16, 20 and 21 have retrospective effect from 11 August 2011.

4. Legislative Context

4.1 Sections 10 and 12 of and Schedule 3 to the Superannuation Act 1972 provide powers for regulations to define, amongst other matters, the administration, nature of benefits, entitlements and membership requirements for the NHS Pension Scheme.

4.2 In 2008 the NHS Pension Scheme (NHS PS) divided into two ‘sections’ when a new benefit structure was introduced for new entrants. Membership and administration of the ‘1995 Section’ is governed by the National Health Service Pension Scheme Regulations 1995 (Statutory Instrument (S.I) 1995/300). Part 2 of this SI amends those regulations.

4.3 Similarly, the ‘2008 Section’ was created by the National Health Service Pension Scheme Regulations 2008 (S.I. 2008/653). Part 3 of this SI amends those regulations.

4.4 Certain payments are made to NHS staff following a work-related illness or injury. The National Health Service (Injury Benefits) Regulations 1995 (S.I. 1995/866) provide for such payments to be made. Part 4 of this SI amends those regulations.

5. Territorial Extent and Application

The instrument applies to England and Wales.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background - What is being done and why

Increases to member contributions

7.1 The Independent Public Service Pensions Commission, chaired by Lord Hutton, made twenty-seven recommendations for the reform of Public Service Pensions. The Government accepted Lord Hutton's recommendations as a basis for consultation with public sector workers and trade unions on long-term reform of pension arrangements. These discussions are continuing. Ahead of this longer-term reform, the Commission also made clear that there is a rationale for increasing pension scheme member contributions to ensure a fairer distribution of costs between taxpayers and members.

7.2 The Government announced plans in the 2010 Spending Review to produce £2.8bn savings per year by 2014-15 through increasing public service employee pension contributions by an average of 3.2 percentage points by March 2015.

7.3 In the Written Ministerial Statement published on the 19 July 2011, the Government set out its preferred parameters for scheme design to achieve these savings as:

- Those earning less than £15,000 on a Full Time Equivalent basis will pay nothing extra;
- Those earning up to £21,000 will pay no more than 0.6% extra in 2012-13 and no more than 1.5% extra in total by 2014-15;
- Higher earners will pay no more than 2.4% extra in 2012-13 and no more than 6% extra in total by 2014-15.

7.4 Public Service Schemes were asked to set rates for scheme year 2012-2013, designed to secure the first stage of the increase whilst taking account of the principles outlined above which reflect the Governments wish to protect the lower paid, apply increases progressively and limit opt out from pension schemes.

7.5 Amending regulations 4, 8, 12, 13, 14, and 18 implement the new contributions rates that are tiered according to earnings in six bandings, to replace the existing four for members of the NHS Pension Schemes. The rates apply to the scheme year that runs from 1 April 2012 to 31 March 2013.

7.6 Members in the NHS PS whose whole time equivalent earnings are less than £26,557 will see no change in their contribution rates for that year. Members earning £26,558 to £48,982 will see an increase of 1.5 per cent. Members earning £48,983 and above will see an increase of 2.4 per cent.

Compliance with the Finance Act 2011

7.7 Finance Act 2011 (FA 11) makes changes to the Finance Act 2004 (FA 04). FA 04 provides for the taxation of pensions, and certain of its provisions prescribe annual and lifetime allowance limits on tax-relieved pension benefits. Amending regulations 3, 7, 10, 11(a), 16, 17(a) and 20 make changes as a consequence of the changes made by FA 11.

Reduced annual allowance

7.8 From 6 April 2011, FA 11 changes to FA 04 restrict pension tax relief for active scheme members by reducing the annual allowance level (AAL) to £50,000. Active members whose pension benefits increase in value by more than the AAL during any year are required to calculate an "AAL charge" through their self-assessment tax return. To support this, FA 11 imposes a new responsibility on scheme administrators to issue those members affected with a "pension savings statement" (PSS), setting out benefits to date and the amount by which the value of their benefits has exceeded the AAL. Schemes are required to issue PSS by October following any tax year, extended to October 2013 for the first year. FA 11 also imposes a new responsibility on scheme employers to provide administrators with the information they will need to calculate and prepare PSS by July any year, extended to July 2013 for the first year. In this respect, consequential changes to NHS Scheme regulations apply with retrospective effect to 6 April 2011.

7.9 FA 11 changes also permit scheme members with large AAL charges (over £2,000) to apply for a new "scheme pays" arrangement. The facility allows members to require schemes to pay the AAL charges to HMRC, on their behalf, subject to the scheme recovering that cost by reduction of current or future benefits. In this respect, consequential changes to NHS Scheme regulations apply with retrospective effect to 11 August 2011.

Reduced lifetime allowance

7.10 From 6 April 2012, FA 11 will also reduce the lifetime allowance (LTA), from £1.8m to £1.5 million. The change is accompanied by a new "transitional protection" arrangement, which permits individuals with pension savings above £1.5 million (or who believe investment/growth will cause benefit value to rise above this level) to apply for a personal LTA of £1.8 million. Individuals requiring transitional protection must curtail pension saving in all registered pension schemes and apply to HMRC before 6 April 2012. Members granted "transitional protection" must provide pension schemes with information and the relevant HMRC reference number, to secure the increased LTA when retirement benefits are calculated. In this respect, consequential changes to NHS Scheme regulations apply with effect from 6 April 2012.

Introduction of the Isle of Man Government Unified Scheme

7.11 From 1 April 2012, the Isle of Man Government will introduce a new Unified Public Service Pension Scheme that replaces existing pension schemes for NHS staff and a number of other public sector workers on the Island. All members of the current Isle of Man (IoM) Health Service Pension Scheme will move to the new Unified Scheme on that date. The consequential changes made by amending regulations 5, 6, 11(b), 15, 17(b), and (19) are explained below.

7.12 Currently, dedicated transfer arrangements apply to most members transferring between the four separate Health Service Pension Schemes in England and Wales, Northern Ireland, the IoM and Scotland. Transferring members are treated as if all their NHS service had been accrued in the receiving NHS Scheme. However, the IoM Unified Scheme will have different provisions to the other NHS Pension Schemes meaning that it will not be possible for the IoM to remain part of these dedicated arrangements from 2 April 2012. The SI therefore removes the IoM Unified Scheme from the dedicated transfer arrangements from this date.

7.13 Members of the IoM Unified Scheme will be able to transfer their pension into the NHS Pension Scheme on a cash equivalent basis in the same way as members transferring from other HMRC approved overseas pension schemes.

7.14 As a further consequence of the ending of the above dedicated transfer arrangements, NHS Pensions will no longer be reduced or suspended when pensioners take up NHS employment in the Isle of Man on or after 1 April 2012.

NHS (Injury Benefits) Regulations change to reflect paragraph 7.9 FA 11-compliance change

7.15 The FA 11 change referred to at paragraph 7.9 above permits members to pay an annual allowance tax charge by reduction to NHS pension benefits. As a consequence, amending regulation 21 of the SI inserts a further 'disregard' to the list in regulation 4(6)(a) of the NHS (Injury Benefits) Regulations 1995.

7.16 Regulation 4(6) of the NHS (Injury Benefits) Regulations lists certain pensions and benefits payable to individuals to compensate them for injury that are offset (deducted) from an award of NHS injury benefit. Sub-paragraph (a) of regulation 4(6) lists reductions to pensions named in 4(6) that are disregarded. Without these offsets, and where appropriate, disregards, individuals would be compensated twice from public funds for the same injury.

Consolidation

7.17 An informal consolidated text of the Regulations amended by this instrument was made available to NHS Trade Unions and other stakeholders. Informally consolidated texts of both sets of NHS Pension Scheme regulations incorporating all changes implemented up to and including those which came into effect on 28 November 2011 are available on the NHS Pensions website and may be viewed here http://www.nhsbsa.nhs.uk/Pensions/2963.aspx

7.18 Work to consolidate both the 1995 and 2008 Regulations has been deferred in light of the Government's proposals for long-term reform of public service pension schemes.

8. Consultation outcome

8.1 A public consultation exercise was held between July and October 2011 on the policy to increase scheme member contributions for the 2012-13 year. Over 8,700 responses were received, mainly from medical staff concerned about the level of the Government's proposed increases to employee contributions. In the light of an alternative proposal submitted by NHS Employers, the Department subsequently modified the initial proposals to protect a greater number of lower and middle earners from an increase during that year. The intention is to limit the number of people who may choose to opt out from scheme membership as a consequence of higher contributions. The rate of opt-out from the scheme is currently

highest amongst lower paid staff. The revised approach spreads the burden more fairly by taking account of the beneficial effect of tax relief for higher rate income tax payers on their pension contributions. The full response to the consultation exercise can be viewed here http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_131747.pdf

8.2 All the changes implemented by this SI (including contribution changes) have also been the subject of a statutory consultation between 8 December 2011 and 20 February 2012. Amongst those consulted were: NHS Trades Union representatives, NHS Employers; NHS Pensions (the Scheme Administrators); other public service pension Schemes; Government Actuary's Department; the devolved administrations; and HM Treasury. Some helpful technical points were raised by consultees and these have been incorporated.

8.3 The GMB and the Royal College of Midwives responded to both consultation exercises on contribution increases. In their further representations they reiterated their objection in principle to the policy of increasing contributions outside of existing cost-sharing arrangements and wider negotiations on public service pension reform. However, the RCM were pleased with the steps taken by DH to protect a greater number of staff from being affected and the decision to distribute the increases based on net rather than gross salaries and substantially raise the pay threshold (to £26,557) beyond which staff would pay an increase.

9. Guidance

9.1 Guidance for members and employers on contribution changes is available on NHS Pensions' (the scheme administrator) website and can be viewed here, along with the leaflet that will be issued to all members with their pay slips before 1 April 2012. http://www.nhsbsa.nhs.uk/Pensions/2657.aspx

9.2 Guidance for members and employers on the tax changes has also been published on NHS Pensions website and may be viewed here: http://www.nhsbsa.nhs.uk/3126.aspx

10. Impact

10.1 This SI will not impose or reduce costs on business or the third sector nor will it result in costs to the public sector of over £5 million. However, an impact assessment is provided for the provisions concerning increased contribution rates in view of the potential public interest. This is attached at Annex A.

10.2 In summary, the impact assessment concludes that the approach adopted for increased employee pension contributions is fairest, with the increases distributed in a way that takes account of the beneficial effect of tax relief for members who pay a higher rate of income tax. This makes for a more truly progressive approach – with the increases better correlating to the actual burden that falls on members.

10.3 By extending the protection from contributions increases for staff earning up to £15,000 to those earning up to £26,557, the risk of opt-outs amongst lower and some middle earners is better mitigated. An equality analysis attached at Annex B concludes that the approach does not give rise to equality issues. The impact on part-time workers was a particular concern of some respondents to the consultation. However, the Scheme Actuary (the Government

Actuary's Department) agrees that basing pension entitlements and contribution rates of part-time staff on their full-time equivalent salary, provides fair and equitable treatment.

11. Regulating small business

The changes do not affect small business.

12. Monitoring & review

NHS Pension Scheme changes are developed, monitored and reviewed in partnership with the NHS Employers organisation and NHS trade unions, in the light of formal and informal consultation procedures. The Partners report and recommend changes to a 'Governance Group' representing employers, NHS Trades Unions and the Department of Health, which in turn makes recommendations to the Secretary of State for Health and HM Treasury.

13. Contact

Mr. Gareth Probert (Gareth.Probert@dh.gsi.gov.uk) at the Department of Health Pensions Policy Team, Tel: 0113 2545491 can answer any queries regarding the instrument.

Equality Analysis

Increases in employee contributions to the NHS Pensions Scheme from 1st April 2012

Equality analysis

Title: Increases in employee contributions to the NHS Pensions Scheme from 1st April 2012

DH Business Plan Action: Working with HM Treasury to deliver changes to the NHS Pension Scheme

The Department of Health and Welsh Assembly Government are working with HM Treasury, other public sector pension schemes and with the current NHS Pension Scheme Governance Group to design and implement changes in employee contributions for the NHS Pension Scheme to deliver commitments made in the 2010 Spending Review. This includes the development of necessary changes in regulations.

What are the intended outcomes of this work?

Expenditure on public service pensions over the last decade has increased by a third to £32bn. The costs of pensions are increasing as people live much longer than previous generations – the average 60 year old is living ten years longer now than they did in the 1970s. More of people's lives are now being spent in retirement – between 40 to 45% of adult life compared with around 30% for pensioners in the 1950s. Pensions are therefore in payment for longer.

These additional costs have generally fallen to the taxpayer to underwrite. The view of the Government is that this is unfair and unaffordable. There needs to be a fairer balance between what employees pay and what other taxpayers contribute towards a public service pension. As an employer, the NHS currently contributes 14% towards pensions, whilst employees contribute an average of 6.5%.

The Government therefore asked the Independent Public Service Pensions Commission to consider the case for delivering savings on public service pensions within the current spending review period. The Commission concluded that it would be more effective to increase member contributions rather than alter the level and range of benefits provided by pension schemes.

The Government therefore announced in the 2010 Spending Review that public sector workers would be asked to contribute more for their pensions. The Spending Review set out plans for savings of £2.8bn per year (including £1bn planned by the previous Government) to be realised by 2014-15. Each public service pension scheme is required to deliver savings equivalent to an average increase of 3.2% in employee contributions over the same period.

Within this context, the Department of Health and the Welsh Government consulted on a preferred approach to increasing the level of contributions made by members of the NHS Pension Scheme towards their pension in 2012-13.

The Government laid out a series of preferred parameters within which individual public service pension schemes developed their approach to achieving the required savings:

- There should be no increase in employee contributions for those earning less than £15,000 on a Full Time Equivalent basis;
- There should be no more than a 0.6 percentage point increase in 2012-13 for those earning up to £21,000, and no more than a 1.5 percentage points increase in total by 2014-15;
- There should be no more than a 2.4 percentage points increase in 2012-13 for high earners, and no more than 6% percentage points increase in total by 2014-15.

Within these parameters, the Department developed a preferred approach that sought to protect the low paid, apply increases progressively and limit the level of opt out that higher contribution rates may generate. In doing so, the Department considered the salary profiles of both NHS Pension Scheme members and the wider NHS workforce.

The following table (Table 1) presents the Department's preferred approach that was consulted on.

Table 1: Original proposed increases in contribution rates

Full Time Equivalent pensionable pay	Contribution rate (before tax relief) 2011-12	Contribution rate (before tax relief) 2012-13	Contribution rate increase in 2012-13 (percentage point)
Up to £15,000	5%	5%	0
£15,001 to £21,175	5%	5.6%	0.6
£21,176 to £26,557	6.5%	7.1%	0.6
£26,558 to £48,982	6.5%	7.7%	1.2
£48,983 to £69,931	6.5%	8.5%	2
£69,932 to £110,273	7.5%	9.8%	2.3
Over £110,273	8.5%	10.9%	2.4

The following table was presented (Table 2 below) illustrating the effect of tax relief on the level of contributions individuals would actually pay if this preferred approach were adopted.

Table 2: Original proposed increases in contribution rates net of tax relief

Full-time 2010/11 pay	2011-12	2012-13		
	Contribution rate net of tax relief	Contribution rate net of tax relief	Increase in contribution rate (percentage point)	Additional cost (£ per month)
£10,000	4%	4%	0	0
£15,000	4%	4%	0	0
£20,000	4%	4.5%	0.5	8
£25,000	5.2%	5.7%	0.5	10
£30,000	5.2%	6.2%	1	25
£40,000	5.2%	6.2%	1	33
£60,000	3.9%	5.1%	1.2	60
£80,000	4.5%	5.9%	1.4	93
£130,000	5.1%	6.5%	1.4	152

Responses to the consultation argued that there is a strong case for reconsidering the distribution of increases for 2012-13 (and for future increases in 2013-14 and 2014-15) to take account of the likely impact of tax relief. This would facilitate, over a three-year period to 2014-15, the Government objective to apply increases progressively - basing these on the actual burden that falls on members rather than the notional cost before tax relief.

To illustrate the impact of higher rate tax relief, some respondents had pointed out that in looking at the 2011-12 contribution rates, when the effect of tax relief is taken into account (i.e. net of tax) this meant that higher rate taxpayers earning an FTE salary of £60,000 actually paid the lowest contribution rate at 3.9%. Those earning FTE salaries of £80,000 and £130,000 paid a lower net contribution than members earning FTE salaries of £25,000, £30,000 or £40,000.

The Department has therefore decided to amend its proposed approach to take account of tax relief. The increases proposed for 2012-13 narrow the beneficial effect of tax relief and if this approach is extrapolated for future increases in the period up to 2014-15, it would mean that by 2014-15, the net contribution paid by those earning between £48,983 and £69,931 would be greater than that paid by members earning between £26,558 to £48,982.

The revised approach that the Department intends to apply in increasing NHS Pension Scheme member contributions from 1 April 2012 is set out in Tables 3 and 4 below.

Table 3: Revised proposed increases in contribution rates

Full Time Equivalent pensionable pay	Contribution rate (before tax relief) 2011/12	Contribution rate (before tax relief) 2012/13	Contribution rate increase in 2012/13 (percentage point)
Up to £15,000	5%	5%	0
£15,001 to £21,175	5%	5%	0
£21,176 to £26,557	6.5%	6.5%	0
£26,558 to £48,982	6.5%	8%	1.5
£48,983 to £69,931	6.5%	8.9%	2.4
£69,932 to £110,273	7.5%	9.9%	2.4
Over £110,273	8.5%	10.9%	2.4

Table 4: Revised proposed increases in contribution rates net of tax relief

Full-time 2010/11 pay	2010/11 contribution net of tax relief	2012/13 contribution net of tax relief	Contribution increase net of tax relief (percentage point)
£10,000	4%	4%	0
£15,000	4%	4%	0
£20,000	4%	4%	0
£25,000	5.2%	5.2%	0
£30,000	5.2%	6.4%	1.2
£40,000	5.2%	6.4%	1.2
£60,000	3.9%	5.34%	1.44
£80,000	4.5%	5.94%	1.44
£130,000	5.1%	6.54%	1.44

Who will be affected?

The group affected by this policy are members of the NHS Pension Scheme, earning more than £15,000 full-time equivalent per year (original consultation proposal) or £26,557 (revised post-consultation proposal) from 1 April 2012.

The NHS Pension Scheme is a statutory, occupational scheme; both members and their NHS employers are generally required to pay a contribution to cover the cost of paying benefits.

Membership of the scheme is not compulsory. Persons who are eligible to join the scheme are:

- Staff directly employed by the NHS,
- Self employed General, Dental and Ophthalmic Practitioners,
- General Medical Practice Staff, and
- Staff of organisations that are granted access to the NHS Pension Scheme via a Direction by the Secretary of State, for example, staff working in hospices, social enterprises and other third sector organisations providing health care.

The Scheme currently has approximately 1.3 million active members who pay a range of contributions to the pension scheme according to the level of their whole time equivalent pensionable pay.

Current contribution rates and pensionable pay bands are as follows:

Pensionable Pay band	Contribution percentage rate
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%.

Evidence

What evidence have you considered?

The evidence is based on analysis of the active membership data provided for NHS Pension Scheme valuation as at 31 March 2008 which has been uprated in the same way as for valuation purposes to take account of incomplete data. An adjustment has been made to member pay in the 2008 valuation data (which is pay received in 2007-08) to express it in 2010-11 pay terms. A multiplier of 1.082 has been applied to the 2007-08 pay to express it in 2010-11 terms. This multiplier represents the general level of increase in the Agenda for Change scales between 2007-08 and 2010-11.

The valuation data allows us to analyse the impact of the proposed contribution increases by age, gender and part-time/full-time status.

Gender

Table 5: Number of members split by gender and salary bands (notional 2010-11 terms) – original proposal

	Full-time equivalent earnings 2010-11							
Gender	Up to £15,000	£15,001 to £21,175	£21,176 to £26,557	£26,558 to £48,982	£48,983 to £69,931	£69,932 to £110,273	£110,273 +	Average contribution increase (before tax)
M	14,206	48,163	33,327	111,074	19,140	32,694	24,395	1.25%
F	77,803	264,879	164,330	404,168	31,507	23,183	10,240	0.91%
Total	**92,009**	**313,042**	**197,657**	**515,242**	**50,647**	**55,877**	**34,635**	**0.98%**
M	15%	15%	17%	22%	38%	59%	70%	1.25%
F	85%	85%	83%	78%	62%	41%	30%	0.91%

Table 6: Number of members split by gender and salary bands (notional 2010-11 terms) – revised proposal

	Full-time equivalent earnings 2011-11							
Gender	Up to £15,000	£15,001 to £21,175	£21,176 to £26,557	£26,558 to £48,982	£48,983 to £69,931	£69,932 to £110,273	£110,273 +	Average contribution increase (before tax)
M	14,206	48,163	33,327	111,074	19,140	32,694	24,395	1.24%
F	77,803	264,879	164,330	404,168	31,507	23,183	10,240	0.78%
Total	**92,009**	**313,042**	**197,657**	**515,242**	**50,647**	**55,877**	**34,635**	**0.88%**
M	15%	15%	17%	22%	38%	59%	70%	1.24%
F	85%	85%	83%	78%	62%	41%	30%	0.78%

Tables 5 and 6 show that the structure of the contribution increases proposed in the consultation results in higher increases on average for male members than for female members. This is as expected given that female average pay is lower than male average pay (£ against £ in the 2008 valuation data).

Analysis by part-time/full-time status

Table 7: Number of members split by part-timers and salary bands (notional 2010-11 terms) – original proposal

	Full-time equivalent earnings 2010-11							
Part-time/ Full-time status	Up to £15,000	£15,001 to £21,175	£21,176 to £26,557	£26,558 to £48,982	£48,983 to £69,931	£69,932 to £110,273	£110,273 +	Average contribution increase (before tax)
Full-Time	33,671	170,072	139,805	359,366	32,181	34,359	11,422	1.01%
Part-Time	54,459	140,949	56,520	149,794	10,930	7,091	3,987	0.82%
Total	**88,131**	**311,020**	**196,325**	**509,160**	**43,110**	**41,450**	**15,409**	**0.94%**
% FT	38%	55%	71%	71%	75%	83%	74%	1.01%
% PT	62%	45%	29%	29%	25%	17%	26%	0.82%

Table 8: Number of members split by part-timers and salary bands (notional 2010-11 terms) – revised proposal

	Full-time equivalent earnings 2010-11							
Part-time/ Full-time status	Up to £15,000	£15,001 to £21,175	£21,176 to £26,557	£26,558 to £48,982	£48,983 to £69,931	£69,932 to £110,273	£110,273 +	Average contribution increase (before tax)
Full-Time	33,671	170,072	139,805	359,366	32,181	34,359	11,422	0.93%
Part-Time	54,459	140,949	56,520	149,794	10,930	7,091	3,987	0.65%
Total	**88,131**	**311,020**	**196,325**	**509,160**	**43,110**	**41,450**	**15,409**	**0.83%**
% FT	38%	55%	71%	71%	75%	83%	74%	0.93%
% PT	62%	45%	29%	29%	25%	17%	26%	0.65%

Tables 7 and 8 illustrate the impact of the proposed contribution increases on members by part-time/full-time status. The tables show the numbers of part-time and full-time members (left hand column) analysed across a range of different full-time equivalent earnings. The right hand column shows the average contribution increase of members in part-time and full-time employment.

This analysis relates to officer members only, however officer members do constitute the bulk of scheme membership. The table demonstrates that the proposed contribution rate increases impacts full-time members more than part-time members.

NHS employees who work part-time have their contributions based on their "full-time equivalent" salary rather than their actual earnings. A number of respondents to the consultation argued that this creates a difference in contribution rates between full and part time workers with the same level of income.

The percentage contribution rate is set according to the full-time equivalent pay of part-time staff. However a part-time worker would then pay contributions equal to that percentage contribution rate of their actual part-time pay. The part-time worker's length of service would also be scaled down to its full-time equivalent length.

This approach was agreed with the NHS Trade Unions as the best way forward when tiered contribution rates were introduced.

To illustrate, if we compare the pensions of two nurses who are doing the same role – one working full-time earning £30,000, and one whose full-time equivalent pay is £30,000 but who is working part-time at half of full-time hours and earning £15,000 –

- The full-time nurse pays 8% contributions (£2,400) on £30,000 and earns 1/80th of this as pension - worth £375 per annum

- The part-time nurse pays 8% contribution (1,200) on £15,000 which is half of £30,000 and earns half of 1/80th of this as pension - worth £187.50 per annum

£187.50 is half of £375. Therefore this is fair and equitable as the part-timer is working half the hours of the full timer, is earning half the pay of the full timer, is paying pension contributions that are half those of the full timer and is getting a pension that is half that of the full timer.

The data in Tables 7 and 8 demonstrate that full-time staff are likely on average to receive a greater percentage increase in employee pension contribution than part-time workers. However, as demonstrated in the worked example above, part-time staff are not ultimately disadvantaged because pension entitlements are normally based on their full time equivalent pensionable pay. Part-time workers will build up their pension at a slower rate because their length of service will be based on their part-time working pattern.

This approach was agreed with the NHS Trade Unions, as the best way forward when tiered contribution rates were introduced.

Age

Table 9: Number of members split by age groups and earnings bands (notional 2010-11 terms) – original proposal

	Full-time equivalent earnings 2010-11							
Age bands	Up to £15,000	£15,001 to £21,175	£21,176 to £26,557	£26,558 to £48,982	£48,983 to £69,931	£69,932 to £110,273	£110,273 +	Average contribution increase (before tax)
0-19	1,757	1,299	95	37	10	6	8	0.29%
20-29	15,628	41,722	45,625	50,704	1,628	953	463	0.76%
30-39	17,325	59,069	46,489	151,891	12,772	11,967	3,862	1.02%
40-49	28,160	95,342	52,850	176,461	19,992	25,651	11,484	1.04%
50-54	12,833	47,603	23,229	71,788	8,310	8,900	8,295	1.03%
55-59	10,578	43,337	18,730	46,202	5,503	5,699	6,949	0.97%
60-64	5,058	21,905	9,542	16,850	2,174	2,338	3,169	0.92%
65-69	667	2,746	1,086	1,304	255	360	403	0.90%
70-120	3	19	10	6	4	3	2	0.93%
Total	**92,009**	**313,042**	**197,657**	**515,242**	**50,647**	**55,877**	**34,635**	**0.98%**

Table 10: Number of members split by age groups and earnings bands (notional 2010-11 terms) – revised proposal

	Full-time equivalent earnings 2010-11							
Age bands	Up to £15,000	£15,001 to £21,175	£21,176 to £26,557	£26,558 to £48,982	£48,983 to £69,931	£69,932 to £110,273	£110,273 +	Average contribution increase (before tax)
0-19	1,757	1,299	95	37	10	6	8	0.04%
20-29	15,628	41,722	45,625	50,704	1,628	953	463	0.53%
30-39	17,325	59,069	46,489	151,891	12,772	11,967	3,862	0.98%
40-49	28,160	95,342	52,850	176,461	19,992	25,651	11,484	0.98%
50-54	12,833	47,603	23,229	71,788	8,310	8,900	8,295	0.93%
55-59	10,578	43,337	18,730	46,202	5,503	5,699	6,949	0.82%
60-64	5,058	21,905	9,542	16,850	2,174	2,338	3,169	0.72%
65-69	667	2,746	1,086	1,304	255	360	403	0.64%
70-120	3	19	10	6	4	3	2	0.63%
Total	**92,009**	**313,042**	**197,657**	**515,242**	**50,647**	**55,877**	**34,635**	**0.88%**

Tables 9 and 10 show that the proposed contribution increases will have the greatest impact on members aged 30 to 55 and that younger members under age 20 will see the least impact. Analysis suggests that the average contribution increase rises with age up to the 40s and then tails off slightly at ages beyond this. Generally we would expect pay levels to increase with age as a result of career progression by promotion or movement through payband. The proposed contribution increases have been applied in a progressive manner, so that the higher paid contribute a greater proportion of their income, accordingly the lower paid would experience a smaller increase to their contributions.

Race, Disability, Sexual Orientation, Religion or Belief, Gender reassignment (including transgender)

Contributions to the NHS Pension Scheme are based on salary or level of pensionable earnings. We do not consider that the proposal to increase contributions raises any specific equality issues for members in relation to their race, disability, sexual orientation, religion or belief, or gender reassignment.

Pregnancy, Maternity and Carers

Contributions to the NHS Pension Scheme are based on salary or level of pensionable earnings. We do not consider that the proposal to increase contributions raises any specific equality issues in relation to pregnancy, maternity or carers. The issue of part-time working is relevant here, and is considered fully in section on gender above.

Other identified groups

Contributions to the NHS Pension Scheme are based on salary or level of pensionable earnings. NHS payscales (i.e. Agenda for Change) are applied uniformly across all participating NHS employers nationally and equally to all staff in similar grades. As such we do not consider that the requirement to contribute to the NHS Pension Scheme as a condition of membership, nor the proposal to increase such contributions impacts negatively on staff from different socio-economic groups or with a differing residency status.

Engagement and involvement

Was this work subject to the requirements of the cross-government Code of Practice on Consultation? Yes

How have you engaged stakeholders in gathering evidence or testing the evidence available?

Following the announcement in Spending Review 2010, that public service employees would need to make increased contributions to Public Service Pension Schemes, we have discussed the proposal with the NHS Pension Scheme Governance Group, and it is Technical Advisory Group. The Governance Group consists of a Management Side containing representatives of NHS Organisations, a Staff Side consisting of representatives of the recognised NHS trade unisons, the Department of Health, the Government Actuary's Department (advising DH), and First Actuarial, an independent actuary providing independent actuarial advice to the governance group as a whole.

Further to the above discussions, a meeting of the data sub group of the NHS Pension Scheme Governance Group was held which considered sources of data and evidence to assess the impact of the proposed increases.

How have you engaged stakeholders in testing the policy or programme proposals?

The proposal was subject to a consultation process running from 28 July until 21 October 2011. It was conducted in accordance with the Government's Code of Practice for consultations.

The consultation document was available on the Department of Health's website and responses could be returned by email or by post. An online calculator and Q&A material was published to help NHS pension scheme members understand the impact of the proposals.

Awareness of the consultation was raised through:

- Articles in staff bulletins such as 'the Week' and GP bulletin
- NHS Pension Agency newsletter to employer organisations
- Staff payslip message
- Written Ministerial Statement and subsequent trade media coverage

Throughout the consultation period, discussions have taken place with Staff side representatives through the NHS Pension Scheme Governance and Technical Advisory Groups.

For each engagement activity, please state who was involved, how and when they were engaged, and the key outputs:

A report of the consultation summarising key outputs has been produced and published on the Department's website.

Summary of Analysis

We conclude based on the evidence presented above, that the proposal to increase member contributions both in its original consultation form (Tables 1 & 2), and the revised version post consultation (Tables 3 & 4) do not give rise to equality issues. As noted in the section evaluating potential gender inequalities, a number of respondents to the consultation raised the potential disadvantage to part-time workers. However by basing the pension entitlements and contribution rate of part-time staff on their full-time equivalent salary, this provides for a fair and equitable treatment.

Responses to the consultation argued that there is a strong case for reconsidering the distribution of increases for 2012-13 (and for future increases in 2013-14 and 2014-15) on a net (of tax) rather than a gross basis. This would facilitate, over a three year period to 2014-15, the Government objective to apply increases progressively - basing these on the actual burden that falls on members. We agree with this approach, and have revised the consultation proposal to achieve this. The increases proposed for 2012-13 narrow the beneficial effect of tax relief and if this approach is extrapolated for future increases in the period up to 2014-15, it would mean that the net contribution paid by those earning between £48,983 and £69,931 would be greater than that paid by members earning between £26,558 to £48,982.

To illustrate the impact of higher rate tax relief, some respondents had pointed out that in looking at the 2011-12 contribution rates, when the effect of tax relief is taken into account (i.e. net of tax) this meant that higher rate taxpayers earning an FTE salary of £60,000 actually paid the lowest contribution rate at 3.9%. Those earning FTE salaries of £80,000 and £130,000 paid

a lower net contribution than members earning FTE salaries of £25,000, £30,000 or £40,000.

Impact of proposals on eliminating discrimination, harassment and victimisation, advancing equality of opportunity, or promoting good relations between groups

Pension benefits received from the NHS Pension Scheme are the result of contributions paid into the scheme based on a member's salary or level of pensionable earnings. Given this objective, there is no realistic scope for the NHS Pension Scheme itself to be used to eliminate discrimination, harassment or victimisation, advance equality of opportunity or promote good relations between groups. The proposed member contribution increases therefore do not impact, positively or negatively, on these areas.

What is the overall impact?

The NHS Pension Scheme is open to all NHS staff to join unless they are already in receipt of NHS pension benefits. Whilst the above analysis demonstrates that increasing contributions does not give rise to equality issues, it may however make continued scheme membership unaffordable for some members depending on their personal financial circumstances. HM Treasury estimate that the rate of staff opting out of public service pension schemes is expected to increase by up to one percent of paybill as a result of the proposed increase in contributions, though it is likely that opt outs will be more common among lower paid staff. It is for this reason that we intend to protect them from the increases. The benefits of scheme membership and return on investment per pound contributed remain significant in comparison to commercially available alternatives and should remain attractive to staff.

Addressing the impact on equalities

We do not consider that the current operation of the NHS Pension Scheme gives rises to any impact on equalities. In considering the impact of the proposed contribution increases, the evidence examined does not indicate any gaps or opportunities upon which to take action. We have searched for independent research evidence on any differential impact of public pension reforms, based on socio-economic status, and also in respect of excluded or marginalised groups, but have failed to identify any.

For the record

Name of person who carried out this assessment:
Ian Mallett

Date assessment completed:
29 November 2011

Name of responsible Director/Director General:
Nic Greenfield, Director of NHS Pay, Pensions & Employee Relations

Date assessment was signed:
1 December 2011