POLICY NOTE

THE NATIONAL HEALTH SERVICE SUPERANNUATION AND PENSION SCHEMES (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2020

SSI 2020/30

The above instrument was made in exercise of the powers conferred by section 10 and 12, and Schedule 3 to the Superannuation Act 1972, and by section 1(1) and (2) (e) and paragraph 5(b) of schedule 2 of the Public Service Pensions Act 2013 ("the Act"). The instrument is subject to negative procedure.

This instrument makes changes to the employee contribution table for 2020-21 which updates the salary/earnings bands on which the employee contribution percentages are set. This instrument also makes changes to the final pay control provisions in the 2011 Regulations, to exclude from pay control regulations, pay increases which arise as a result of the Agenda for Change pay award. The instrument makes minor corrections to The NHS Superannuation Scheme (Miscellaneous) (Scotland) Regulations 2017.

Policy Objectives

The purpose of this instrument is to update and amend The National Health Service Superannuation Scheme (Scotland) Regulations 2011, The National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013, The National Health Service Pension Scheme (Scotland) Regulations 2015 and The National Health Service Pension Scheme (Scotland) (Additional Voluntary Contributions) Regulations 2018 .

One of the aims of this instrument is to to make changes to the salary/earnings bands of the employee contribution tables in respect of the scheme year 2020/21. This will ensure that the tiering of pay bands remains in line with annual increases in members' pay. It was agreed during scheme reform discussions with both scheme employer and scheme member representatives that, although member contribution rates would not change, the pay/earnings bands in each tier would increase each year in line with national NHS pay awards in Scotland.

The other aim of the instrument is to make changes to the final pay control provisions which are provided for under Regulation D3 of the 2011 Regulations to safeguard the NHS Pension Scheme against inordinate pensionable pay increases for members approaching retirement. Where a member receives an increase to their pensionable pay which exceeds the 'allowable amount' in any of the three years prior to their last day of service, the employing authority that awarded the excess pay is liable for the final pay control charge. The allowable amount is set at 4.5% plus the rate of the Consumer Price Index (CPI), where CPI is nil or negative the allowable amount is 4.5%.

The Agenda for Change (AfC) pay deal provides for pay increases of at least 9% for NHS employees over 3 years. NHS employees who receive a pay increase under AfC pay deal and then retire shortly afterwards may fall within the scope of the Final Pay Control regulations and their employer would subsequently be liable for a charge under the 2011 Regulations. The intention of the Final Pay Controls policy is to claim back extra pension monies from an

employer where they have purposefully awarded a pay increase with the intention of increasing a member's pension entitlement. It is not intended to capture mandatory pay increases such as those in relation to the AfC pay deal. Therefore, the instrument amends Regulation D3 of the 2011 Regulations to exempt from Final Pay Control provisions, any pay increase arising from the AfC pay award.

The amendments to the NHS Superannuation Scheme (Miscellaneous) (Scotland) Regulations 2017 are minor corrections for administrative purposes.

Consultation

To comply with the requirements of section 10(4) of the Superannuation Act 1972 a formal policy consultation took place from 20 December 2019 to 13 January 2020. In particular, representatives of NHS employers and employees, other Scottish Government interests and UK Government departments were consulted. No responses to the consultation were received.

Impact Assessments

An equality impact statement in respect of the NHS Pension Scheme (Scotland) reforms (including contribution rates) was prepared and is available at http://www.gov.scot/Publications/2015/03/2855

Financial Effects

The increase in pay bands on which contributions for members are based is beneficial to members. There is an agreed policy that members should not be moved into a higher contribution tier as a result of the national NHS pay awards. As a result of the re-structuring and separation of the AfC pay bands in 2020/21 some of the salary points used to base the contribution tiers have been merged and therefore a higher salary point has been used. The Government Actuaries Department have assessed the impact on scheme yield of using higher salary points and have concluded that this will not have a material effect.

Business and Regulatory Impact Assessment

No Business and Regulatory Impact Assessment is necessary as the instrument has no financial effects on the Scottish Government, local government or business.

Scottish Public Pensions Agency

An Agency of the Scottish Government

14 February 2020