EXECUTIVE NOTE

THE NATIONAL HEALTH SERVICE (SUPERANNUATION AND PENSION SCHEME) (SCOTLAND) AMENDMENT) REGULATIONS 2011

SSI 2011/53

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. Functions under that Act as regards to Scotland have been executively devolved to the Scottish Ministers. The instrument is subject to the negative resolution procedure. The Instrument extends only to Scotland.

The instrument amends the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (S.I. 1995/365 "the 1995 Section of the scheme") and the National Health Service Pension Scheme (Scotland) Regulations 2008 (S.S.I. 2008/224 "the 2008 Section of the scheme")

Background

In the 22 June 2010 UK Budget, the Chancellor announced that public service pensions would increase annually in line with the Consumer Prices Index (CPI) with effect from April 2011. This change will happen automatically to NHS pensions in payment (including Additional Pension(AP)) and deferred NHS pensions by virtue of their link to the provisions of the Pensions (Increase) Act 1971 and the annual HM Treasury Pensions Increase (Review) Orders made under that Act which are reserved to Westminster. No amendments to NHS Scheme regulations are therefore required in this respect.

Scheme members can elect to purchase AP in blocks of £250. The Scheme regulations do currently provide for AP purchased to be re-valued in line with monthly increases in the Retail Prices Index (RPI) before the AP comes into payment ("a pre-payment increase"). In line with the movement to index public sector pensions by CPI these regulations apply the new indexation for the re-valuation of additional pension contracts that begin from and including 1 April 2011. The indexation provided by the Pensions Increase Act will be applied to these contracts. However the instrument also provides that any elections taken out up to and including 31 March 2011 will continue to be re-valued by RPI.

Policy Objectives

Regulation 2 amends Regulation Q17 of the 1995 Regulations in relation to the re-valuation of additional pension. The amendment makes provision for AP purchased before 1 April 2011 to continue to be re-valued by the RPI and for AP purchased on or after 1 April 2011 to be re-valued in line with the indexation provided under the Pensions (Increase) Act 1971.

Regulation 3 amends Regulations 2.C.17 (for officer members) and 3.C15 (practitioner members) of the 2008 regulations in relation to the re-valuation of additional pension. As above the amendment makes provision for AP purchased before 1 April 2011 to continue to be re-valued by the RPI and for AP purchased on or after 1 April 2011 to be re-valued in line with the indexation provided under the Pensions (Increase) Act 1971.

The factors used to calculate the cost of AP will be reviewed by the Government Actuary's Department.

Sensitivity

The wider move from using RPI to CPI to revalue pension benefits is strongly opposed by stakeholders. This instrument amends the specific reference to the re-valuation of AP's in the regulations in line with the overall policy change on indexation. The instrument does though provide protection to retain re-valuation by RPI for those members who elect to purchase AP up to and including 31 March 2011.

Consultation

To comply with the requirements of section 9(5) of the Superannuation Act 1972 a consultation on the amendments made by this instrument took place over the period 26th November 2010 to 7 January 2011. The instrument has been the subject of consultation with representatives of NHS employers and employees, other Scottish Government interests and UK Government departments. Consultation responses in respect of these changes have highlighted Trade Union opposition to the general policy to change indexing from RPI to CPI. This is because CPI is generally expected to be lower than RPI and therefore can be seen as a reduction in pension income over time.

Financial Implications

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

Contact

If you have any queries regarding this instrument, please contact Sharon Liptrott at the Scottish Public Pensions Agency (Tel: 01896 893228 or email: sharon.liptrott@scotland.gsi.gov.uk)

Consolidation

8. The Subordinate Legislation Committee will wish to be aware that we are currently working on a consolidation of the 1995 Section of the Scheme and intend to lay a consolidating instrument in the Scottish Parliament shortly after this instrument.

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