EXECUTIVE NOTE TO

THE NATIONAL HEALTH SERVICE (SUPERANNUATION SCHEME AND PENSION SCHEME AMENDMENT) (SCOTLAND) REGULATIONS 2012

SSI 2012/69

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. The instrument amends the National Health Service Superannuation Scheme (Scotland) Regulations 2011 (S.I. 1995/117 "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

The Scottish NHS Pension Scheme Regulations require members to pay contributions to the scheme as a condition of membership. Contribution rates are "tiered", so that higher earners receiving larger scheme benefits generally pay a higher rate of contributions than lower earners receiving lower scheme benefits. The regulations are amended whenever contribution percentage rates are changed or pay/earnings band amounts are changed.

Although the Scottish Ministers have responsibility for the NHS Pension Scheme in Scotland wider policy for occupational pensions is reserved to the Westminster Parliament. The 2010 UK Spending Review set out the UK Government's intention to increase employee contribution rates in public service pension schemes by 3.2 percent of pay by April 2014. This was expected to be achieved in three annual increments in April 2012, April 2013 and April 2014. Following consideration of this policy and the available alternatives, Scottish Ministers determined to apply the first increment.

Policy Objectives

This instrument makes amendments to the Scottish NHS pension scheme regulations to reflect increases in member contribution rates to apply from 1 April 2012:

- Amendment 3(a) replaces paragraph (2) of regulation D1 (contributions by members). The new paragraph replaces the current 'two-table' format with a single table which includes new pay bands and corresponding contribution rates applicable to all 1995-section 'officer' scheme members for the scheme year 2012/13.
- Amendments 3(b), (c) and (d) correct links applicable to the previous 'two-table' format, to line them up with the new single table format.
- Amendment 4 introduces the new pay bands and contribution rates for scheme year 2012-2013 for Practitioners and Non GP Provider Partners (NGPPs). Paragraph 2 of Schedule 1 to the 2011 regulations (1995 section) provides that the 2011 regulations apply to Practitioner and NGPP members, with the modifications described in that Schedule. Amending regulation 4 replaces sub-paragraph (2), so that:

1. the current contribution rate table for scheme years 2010/11 and 2011/12 is retained – 'table 1',
2. the new earnings bands and contribution rates for 2012/13 are inserted – 'table 2', and
3. the definition of 'relevant table' is updated to accommodate the above changes

Amendments 6 to 9 make similar amendments to the 2008 regulations (the 2008 section of the scheme) in the relevant sections of those regulations which cover Officer, NGPPs and practitioner members.

Sensitivity

The policy to increase contributions is strongly opposed by active scheme members, Trade Unions, staff associations, employer organisations such as COSLA. Scottish Ministers have also placed on the record their principled opposition to the increases being introduced at this time. On 5 September 2011, the UK Government confirmed its intention to apply financial sanctions to the Scottish settlement if the increases were not applied in Scotland. Having unsuccessfully sought to explore alternatives with representatives of lead stakeholder groups, Ministers concluded that they were required to apply the increases for 2012/13. In so doing, the Scottish Government has ensured that lower paid workers receive protection from the full effects of the increases. This is offset by requiring higher earners to meet a higher proportion of the increases Consequently, employee contribution rates are to be spread over seven pensionable pay related bands.

Consultation

The proposed increases have been the subject of formal policy consultation (7 October 2011 to 17 November 2011) and draft regulations (22 December 2011 to 3 February 2012). That formal consultation was issued to representatives of NHS employers and employees, other Scottish Government interests and UK Government departments. In addition, the policy proposals were discussed at the Scottish Pensions Group – the standing tri-partite advisory group for the NHS pension scheme in Scotland.

Responses to the policy consultation highlighted both individual and Trade Union opposition to the rise in contributions. One suggestion for an alternative design of contribution rises was also received. That design was considered alongside the original proposals and proposals for the NHS pension scheme for England and Wales, which were revised so that the rise in contributions was more evenly spread after tax relief was taken into account.

It was decided to adopt the revised approach for England and Wales and subsequent draft regulations were subject to formal consultation (22 December 2011 to 3 February 2012) but no further technical amendments were required as a result of that consultation.

Financial Implications

The increases, as designed, are expected to raise in the region of an additional £55 million a year from 1 April 2012.

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

Equality Impact Assessment

An Equality Impact Assessment has been prepared and will be made available on the SPPA website.

Scottish Public Pensions Agency
29 February 2011