EXECUTIVE NOTE

THE NATIONAL HEALTH SERVICE SUPERANNUATION SCHEME ETC. (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2012

S.S.I. 2012/163

Background

1. The above instrument is made in exercise of the functions conferred by sections 10 and 12 of, and Schedule 3 to, the Superannuation Act 1972. These functions, so far as they are exercisable in or as regards Scotland, were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999.

2. It amends the National Health Service Superannuation Scheme (Scotland) Regulations 2011 ("the 1995 Section"), the National Health Service Pension Scheme (Scotland) Regulations 2008 ("the 2008 Section"), the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998 ("the AVC Regulations") and the National Health Service (Scotland) (Injury Benefits) Regulations 1998.

Policy Objectives

3. This instrument amends the Regulations mentioned in paragraph 2 in order to take account of recent changes to tax legislation and the Isle of Man NHS scheme moving to a unified pension scheme. It also makes other changes to clarify and correct these Regulations.

Tax changes

Reduced annual allowance

4. From 6 April 2011, the Finance Act 2004 restricts pension tax relief for active scheme members by reducing the annual allowance level (AAL) to £50,000. Active scheme 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, the Finance Act 2011 imposes a new responsibility on scheme administrators, to issue those members affected with a "pension savings statement" (benefit statement), setting out benefits to date and the amount by which the value of their benefits have exceeded the AAL. The Finance Act 2011 also imposes a new responsibility on scheme employers to provide administrators with the information they will need to calculate and prepare benefit statements by July any year, extended to July 2013 for the first year. Consequential changes to NHS Scheme regulations therefore apply (with retrospective effect to 6 April 2011).

5. The Finance Act 20011 permits 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 large AAL charges to HM Revenue and Customs (HMRC), on their behalf, subject to the scheme recovering that cost by reduction of current or future benefits. Consequential changes to NHS Scheme regulations apply with retrospective effect to 11 August 2011.

Reduced lifetime allowance

6. From 6 April 2012, the Finance Act 2004 also reduces the lifetime allowance (LTA), from £1.8 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 have curtailed pension saving in all registered pension schemes and have applied 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.

Serious ill-health and tax charges

7. Under the Finance Act 2011, members who receive the upper tier pension can be exempt from the new annual allowance tax change if they fulfil certain criteria. A new test for medical advisor advice as to whether a member fulfils this criteria has therefore been inserted into the regulations.

Introduction of Unified Public Service Pension Scheme in the Isle of Man

8. From 1 April 2012, the Isle of Man (IoM) Government introduced a Unified Public Service Pension Scheme that will make provisions for NHS staff, Civil Servants, Fire Fighters and a number of other public sector workers on the Island. All active and deferred members of the IoM Health Service Pension Scheme will join the IoM Unified Scheme on 1 April 2012. In addition, all existing NHS Scheme service earned up to 31 March 2012 will be transferred into the Unified Scheme on that date. The IoM Unified Scheme will not participate in the Public Sector Transfer Club ("the Club").

9. Currently, dedicated transfer arrangements apply to most members transferring between the four separate Health Service Pension Schemes in Scotland, England and Wales, Northern Ireland and the IoM. In the first instance, a member leaving an NHS Scheme's 1995 Section would usually be eligible to join and transfer into another NHS Schemes 1995 Section. On payment of a transfer value calculated in accordance with Club rules, the receiving NHS Scheme would accept and adopt the member's NHS Scheme service, pay and contribution record from the sending NHS Scheme. In this way the member is treated as if all their NHS service had accrued in the receiving NHS Scheme.

10. Introduction of a non-club Unified Scheme with different provisions to other NHS Schemes means that it is not possible for the IoM to be part of these dedicated arrangements in respect of members joining a UK Health Service Scheme on or after 1st April 2012.

11. From that date, when taking up qualifying employment in Scotland, former members of the Unified Scheme will be eligible to join the 2008 Section of the NHS Pension Scheme. Subject to existing time limits, such members will be able to transfer benefits across from the Unified Scheme on a cash equivalent basis in the same way as members transferring from other HMRC approved overseas pension schemes.

12. Former members of the IoM Health Service Scheme, who joined either the 1995 Section or the 2008 Section before 1 April 2012, will be able to complete a transfer on the current

basis as long as their application is within current time limits (a transfer must be applied for within a year of joining).

13. The cessation of "health service scheme" status for the IoM Unified Scheme after 31st March 2012, means that suspension and abatement of pension rules for Scottish NHS Scheme pensioners re-employed in the IoM Health Service on or after 1 April 2012 will also cease to apply. Suspension and abatement rules will continue to apply to Scottish Scheme pensioners re-employed on or before 31 March 2012.

Other Miscellaneous changes

14. A number of other changes have been made to:

- conform with the Registered Pension Schemes (Authorised Payments) Regulations 2009,
- amend the AVC scheme to allow that a transfer can take place to any registered pension scheme,
- make the meaning of particular regulations clearer, and
- correct previous errors.

Sensitivity

15. The Regulations are not contentious.

Consultation

16. 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

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

Scottish Public Pensions Agency
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