EXECUTIVE NOTE

THE NATIONAL HEALTH SERVICE (SUPERANNUATION SCHEME, PENSION SCHEME AND INJURY BENEFITS) (SCOTLAND) AMENDMENT (No. 2) REGULATIONS 2009
SSI 2009/208

1. 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 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. These Regulations amend the National Health Service Superannuation Scheme (Scotland) Regulations 1995 ("the 1995 scheme"), the National Health Service Pension Scheme (Scotland) Regulations 2008 ("the 2008 scheme") and the National Health Service (Injury Benefits) (Scotland) Regulations 1998 ("the Injury Benefits Regulations").

Background

3. The main aim of these Regulations concerns the application of tiered member contributions. As part of the NHS pension reform process it was agreed by the [1]Scottish NHS Pensions Review Group (previously SPensiR) that member contributions should be tiered depending on how much the member earns. The process was introduced along with other reforms from 1 April 2008 however the regulations previously covered a period of transitional change because of the practicalities of payroll systems adopting all the required changes within the timescales. The changes are now able to be adopted in full and therefore the changes in this instrument reflect the position for applying contribution tiers going forward from 1 April 2009. The main change to the Injury Benefits Scheme reflects that Employment and Support Allowance (ESA), payable under section 1 (2) (a) of the Welfare and Reform Act 2007 and which replaced incapacity benefit and income support for new claimants from 27 October 2008 should be taken into account when calculating the amount of an Injury Benefit.

Policy Objectives

4. The Main changes to the 1995 and 2008 schemes introduced by these Regulations, therefore are:

- to take account of changes to the way in which tiered contribution rates for members will operate from 1 April 2009 onwards;
- to introduce amendments, omitted from the regulatory changes effective from 1 April 2008, which cover the situation where re-employed ill health pensioners apply for a review of their lower tier ill health pension (in order to secure an upper tier ill health pension) and the effect on any earlier and later service ;

[1] A partnership between employers, trade unions, professional organisations for the NHS in Scotland and the Scottish Government.

- to introduce amendments following recent legislation by the Department of Work and Pensions legislation which abolished safeguarded rights;
- to introduce new assistant practitioner/salaried GP medical practitioner earnings and contributions certificates;
- to make a change to the employer contribution rate to 13.5% with effect from 1 April 2009 as recommended by the Scheme Actuary following the latest scheme valuation. (And as agreed by Treasury and Cabinet secretaries);
- to amend a small number of technical errors;
- to amend the Injury Benefit regulations to take into account Employment and Support Allowance (ESA) when calculating the amount of an Injury Benefit.

Sensitivity

5. The Regulations are not contentious however it may be worth noting that the version which went out to consultation included changes to the principal regulations to allow pension credit members (i.e. those who have rights in the scheme because of a pension sharing order) similar rights to those with preserved benefits in the scheme e.g. being able to take the pension early at a reduced rate or on ill health grounds. These changes were permissible but not compulsory because of new Department of Work and Pensions legislation which allows that the rules for payment of a pension credit benefit are aligned with other deferred pension rights held in occupational pension schemes. The NHS pension scheme in England and Wales has introduced changes however following consultation we have decided not to include the changes in this instrument but to give these further consideration and wait to see what changes other public pension schemes in Scotland decide to include.

Consultation

6. These Regulations have been the subject of consultation with representatives of NHS employers and employees, other Scottish Government interests and UK Government departments. One comment of consequence was received from the Department for Children Schools and Family who are responsible for the England and Wales Teachers pension scheme who were concerned about possible ill health costs and who were taking more time to consider the inclusion of changes for credit pension members in the teachers pension scheme.

Financial Implications

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

Scottish Public Pensions Agency
May 2009