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Dear Convener,

Thank you for your letter of 15 November 2024 following the meeting of The Health, Social Care and Sport Committee on 7 November 2024, which considered The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2024.

I refer to the questions raised by Dr Sandesh Gulhane MSP during the consideration of the instrument by the Committee.

First of all, it is important to note that while Scottish Ministers have executively devolved responsibility for public service pensions, including the NHS Pension Scheme (Scotland) (NHSPS[S]), occupational pensions policy in general is reserved to the UK Government and is outside the powers of the Scottish Parliament. The Scottish Ministers must therefore implement policy which reflects UK government primary legislation, and any secondary legislation requires HM Treasury approval.

Changes to member contribution rates

The long-term financial sustainability of the NHSPS(S) is measured through quadrennial scheme valuations which assess the costs of providing the scheme and set the employer contribution rate. The valuations are conducted based on a number of demographic and financial assumptions. The key financial assumptions are directed by the UK government, including the Superannuation Contributions Adjusted for Past Experience (SCAPE) discount rate used in the valuation process. The SCAPE discount rate is based on the expected long-term growth of GDP. A decision taken by the previous UK government to lower the discount rate in 2023, led to an increase in the costs of the scheme and an increase to the employer contribution rate following the most recent NHSPS(S) valuation.

While the employer contribution rate is determined by the valuation, the level of member contribution rates is set by the UK government. Members of the NHSPS(S) are required collectively to contribute 9.8% of pay across the whole scheme membership. This is known as the member contribution 'yield'.

While the yield is a fixed percentage, the 9.8% requirement is shared out across the workforce by charging a sliding scale of rates to members according to their pensionable earnings. The aggregate amount collected across members adds up to 9.8%. This approach is known as 'tiered contributions' and is the method adopted across most public service pension schemes in the UK.

A tiered contribution structure was implemented in the NHSPS(S) from April 2015 and was designed to deliver the 9.8% yield. However, as a result of changes in workforce distribution, the NHSPS(S) began to underperform against the target yield and prior to these changes was achieving a yield of around 9.3%. HM Treasury required that the member contribution structure be revised in order to achieve the 9.8% target yield.

Therefore, the reforms to the member contribution structure being delivered through this instrument introduce contribution increases for most members to ensure that the 9.8% yield is met, as required by HM Treasury. They also make the contribution structure more appropriate for the 2015 NHSPS(S) which is a career average revalued earnings scheme. This is achieved by rebalancing the contribution structure, minimising contribution increases for lower earning NHS staff, while reducing rates paid by highest earning members. Changes also ensure part-time staff contribute based on their actual earnings rather than whole-time equivalent. The changes seek to maintain the NHSPS(S) as a sustainable and valuable part of the remuneration package for NHS staff and introduces a contribution structure which is fair and equitable, and maximises participation in the scheme by members at all levels.

These contribution reforms were developed in consultation with the NHS Pension Scheme (Scotland) Advisory Board ("the SAB"). The SAB is a statutory board comprising of employee (trade union) and employer representatives, which has responsibility to advise Scottish Ministers on prospective changes to the NHSPS(S). The changes are aligned with those introduced for the NHS Pension Scheme in England and Wales from 1 October 2022.

Introduction of partial retirement

Turning now to the introduction of partial retirement for members of the 1995 Section of the NHSPS(S) which is introduced alongside pensionable re-employment as part of a package of retirement flexibilities. Partial retirement was already an existing feature of the 2015 Scheme and the 2008 Section of the NHSPS(S). The introduction of partial retirement for the 1995 Section seeks to ensure that scheme rules are aligned for all members of the NHSPS(S). It is also designed to offer staff increased options at the end of their careers, so that they can partially retire and return to work seamlessly and continue building pension after retirement if they wish to do so. It can also help some retired staff to bridge the gap between claiming their NHS pension benefits and receiving their State Pension. This in turn should support NHS capacity by allowing staff to build up further benefits in the 2015 Scheme, making continuing in service more attractive.

Final pay controls

Final pay controls were introduced to the 1995 Section of the NHSPS(S) in 2014. They are designed to safeguard the NHSPS(S) against the costs of excessive increases in employees' pensionable pay in the final three years of employment, such that their final salary pension benefits would be significantly inflated. The current policy applies if a scheme member receives a pensionable pay increase above the "allowable amount" in the final three years of their employment, it will be subject to a final pay control charge. The employing authority awarding the excess pay will be liable to pay this charge.

The changes introduced in this instrument seek to relax the final pay control rules, following analysis and stakeholder feedback. Amongst other changes to exempt certain salary increases, the allowable amount is increased from CPI 4.5% to CPI plus 7%. The changes mirror recent amendments to the scheme in England and Wales and I do not anticipate any impact on NHS staff who are approaching retirement.

Provision of pension scheme information to members

Dr Gulhane has commented on the provision of information to scheme members about their pension benefits. SPPA has a statutory duty to provide Annual Benefit Statements (ABS) to all active members providing information on their accrued pension benefits. They are also required to provide Pension Savings Statement (PSS) annually to all members affected by Annual Allowance pension tax.

SPPA did not issue ABS for members in 2023 due to the inherent complexity in preparing for implementation of the 2015 [McCloud] Remedy, which affects hundreds of thousands of members across all public service pension schemes in the UK.

Pension scheme administrators across the UK, including the SPPA, are now required to provide members who are eligible for the 2015 Remedy with an annual Remediable Service Statement (RSS) which ensures they have sufficient information to make an informed choice about which pension benefits they wish to receive in respect of their remediable service. The legislation provides that members will receive their first RSS by 1 April 2025. It is SPPA's intention to combine the annual RSS with the ABS so that members receive benefit information based on remediable service alongside wider benefit information. Members who are eligible for the 2015 Remedy will receive their ABS-RSS by 1 April 2025.

For members subject to the 2015 Remedy and affected by Annual Allowance pension tax, SPPA is required to recalculate their tax position for the tax years 2015/16 to 2021/22, known as "the remedy period". Affected members will be issued with a Remediable Service Pension Savings Statement (RPSS) which will include recalculated pension input amount for the remedy period tax years and confirmation (where applicable) of the pension input amounts for the previous four tax years.

All affected members are expected to receive their RPSS covering the remedy period and subsequent tax years 2022/23 and 2023/24 by 31 December 2024.

The Scottish Government is unable to look at Dr Gulhane's concerns about tax liabilities incurred as a result of pension scheme membership, as pensions taxation is a matter reserved to Westminster.

I trust this response provides further clarity on the proposals put forward in the instrument and fully addresses Dr Gulhane's questions.

Yours sincerely,

NEIL GRAY