

EXPLANATORY MEMORANDUM TO

The Health and Social Care Pension Scheme (Amendment) Regulations (Northern Ireland) 2023

S.R. 2023 No. 33

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Health (DoH) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Articles 12(1), (2) and (3), and 14(1) and (2) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972 and sections 1(1) and (2)(e), 2(1) and 3(1) to (3) of, and paragraph 5 of Schedule 2 and Schedule 3 to, to (4) of, and paragraph 5 of Schedule 2 and Schedule 3 to, the Public Service Pensions Act (Northern Ireland) 2014⁽¹⁾ and is subject to the negative resolution procedures.

2. Purpose

- 3.1. The Statutory Rule will make technical amendments in relation to the alignment of the Consumer Price Index (CPI) inflation rates used for revaluing pension benefits and the annual allowance tax calculations. It will also update pension contribution tiers in line with the Agenda for Change (AfC) pay award and introduce technical updates to member contribution provisions. The Statutory Rule also makes some technical corrections and refinements to improve the operation of the scheme Regulations.

3. Policy Background – What is being done and why

- 3.1. The rapid increase in CPI inflation has shown there to be a timing mismatch between the CPI rate that is used to revalue accrued benefits in the HSC Pension Scheme and the CPI rate that is allowed for in annual allowance (AA) tax calculations. Aligning these rates will ensure that the AA measures only the pension growth that occurs above inflation.
- 3.2. Effectively there is a one year CPI disparity and recent higher inflation means that this mismatch has become more acute, leading to more members being potentially at risk of breaching their AA.
- 3.3. DoH have written to the Pension Division of DoF to request the Revaluation Order (Northern Ireland) 2023 is adjusted to accommodate the move of the revaluation date for the HSC Pension scheme from 1 to 6 April and therefore align the CPI rates which will ensure that the AA measures only the pension growth that occurs above inflation.

⁽¹⁾ 2014 c.2 (N.I.) section 3 was amended by section 94(11) to (14) of the Public Service Pensions and Judicial Offices Act 2022 (c. 7)

- 3.4. This aligns with the course of action being taken by the equivalent NHS Pension Scheme in GB and for which HM Treasury has agreed to a similar request from DHSC in GB to adjust the comparable Treasury revaluation order.
- 3.5. None of the scheme regulations set a specific revaluation date however some technical amendments are required to the 2015 Regulations to facilitate the correct application of this, and future Department of Finance Orders.
- 3.6. Changing the revaluation date by 5 days, from 1 April to 6 April, aligns the rate of CPI used in the CARE revaluation in the HSC Pension Scheme and the pension benefit growth calculation, for AA purposes. This ensures that the AA operates as intended in relation to HSC pensions, and the high inflation environment does not create larger tax charges for senior clinicians on the pension earned this year. Consequently, from tax year 2022 to 2023 onwards, the calculation to determine the PIA will properly measure growth above inflation in the HSC Pension Scheme.

Changes to contribution tiers in line with AfC pay award

- 3.7. In a previous Consultation on Member Contributions Structure, it was set out that the contribution tier thresholds will be increased annually in line with Agenda for Change (AfC) pay awards. Following details of the 2022/23 pay award, work has been carried out to accurately uplift the member contribution thresholds in line with the AfC pay award.
- 3.8. Regulation 30 of the Health and Social Care Pension Regulations (Northern Ireland) 2015 contains two contribution rate tables for officer members. The first table at Regulation 30 (3) sets out contribution rates for members who have their rate based on the previous year's pensionable pay. The second table at Regulation 30 (3A) sets out contribution rates for members who have their rate based on their current earnings.
- 3.9. As the 2022/23 pay award is being made so close to the end of the scheme year it is proposed to update tables for 2022/23 and also the opening position for 2023/24. At present all tables will be the same but the second table will be amended again once a pay award for 2023/24 is made.
- 3.10. Some technical updates are required to ensure practitioners have paid the correct amount of member contributions for the 2022/23 scheme year as their contribution rate is based on in-year annualised pay.

Minor and miscellaneous amendments

- 3.11. Amendments are required to the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015 so that references to the Health and Social Care Board are replaced by references to the Department of Health. At present this is covered by a transitional provision under the Health and Social Care Act (NI) 2022 however for clarity moving forward it is preferable to amend the Regulations.
- 3.12. Amendments are required to include Shared Parental Leave under reasons for absence from work to ensure shared parental leave can be taken without an impact on the member's pension.

4. Consultation

- 4.1. The changes introduced by this statutory rule have been subject to statutory consultation which commenced on the 31 January 2023 and ended on the 17 February 2023.
- 4.2. Among those consulted were HSC Trade Unions representatives; All HSC Employers; HSC Pension Service (Scheme Administrators); Scheme Advisory Board; Pension Board; DoF and the Government Actuary Department.
- 4.3. 26 responses were received, 21 from individuals and 5 from member representative organisations.

Respondents were generally supportive of the proposals with some feeling the changes do not go far enough to address the tax issues. The consultation response document will be available on the Department of Health website at [HSC Pension Scheme – proposed amendments to scheme regulations | Department of Health \(health-ni.gov.uk\)](#)

5. Equality Impact

- 5.1. An Equality Screening/Impact Assessment (EQIA) and Rural Needs Impact Assessment were carried out by the Department, and have been published on the Departments website.

6. Regulatory Impact

- 6.1. It is not anticipated that there will be any adverse impact on business, charities social economy or voluntary bodies.

7. Financial Implications

- 7.1. There are no financial implications for the Department.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. Consideration has been given to the human rights implications of these regulations. They are considered compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. None

10. Parity or Replicatory Measure

- 10.1. Similar legislation has been introduced for the NHS Pension Schemes in England & Wales.

11. Additional Information

- 11.1. Not applicable.