EXECUTIVE NOTE

THE NATIONAL HEALTH SERVICE (SUPERANNUATION SCHEME AND ADDITIONAL VOLUNTARY CONTRIBUTIONS) (SCOTLAND) AMENDMENT REGULATIONS 2006
SSI/2006/307

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 (c.11). These powers have been devolved 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.

Policy Objectives

The instrument amends the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (S.I. 1995/365) ("the Superannuation Scheme Regulations") and the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998 (S.I. 1998/1451) ("the AVC Regulations"). The amendments are made in response to the provisions of the Finance Act 2004 (c.12) which simplify the taxation regime applying to pension schemes and which came into force on 6 April 2006, known as "A day".

The simplified tax regime introduces a number of general changes, such as changing the way in which pension schemes are approved and introducing annual and lifetime tax allowances for individuals. This instrument amends the Superannuation Scheme Regulations and the AVC Regulations to update appropriate references to this new regime.

The amendment Regulations also secure the schemes' compliance with the <u>mandatory</u> changes applying with effect from 6 April 2006 to all registered pension schemes under the Finance Act 2004, which make any payment not in compliance with the rules an unauthorised scheme payment. The main mandatory requirements of the Finance Act 2004 necessitating the changes made in this instrument are as follows:

- The requirement for all schemes to adopt a new minimum pension age of 55 by 6 April 2010 or earlier. The amendments introduce the new minimum pension age from 6 April 2010 and provide the maximum protection permitted by the Finance Act 2004 of the current minimum pension age of 50 applying to members existing on 5 April 2006.

- The requirement that a lump sum must be paid to a member before they reach age 75.

- The restriction of payments of child allowances after age 23 except in limited circumstances.

- The limits on which a trivial pension can be commuted will be increased to come into line with the overriding rules in force with effect from 6 April 2006.

For consistency with the "A day" date for the coming into force of the changes in the Finance Act 2004, the mandatory changes in this instrument will have retrospective effect from 6 April 2006, as authorised by section 12 of the Superannuation Act 1972.

The amendments also introduce two permissive changes allowed under the Finance Act 2004, in relation to the schemes' in house Money Purchase Additional Voluntary Contributions (MPAVC) arrangements. These are to have effect from the date of coming into force of this instrument and are as follows:

- Members of the schemes will be able to make NHS MPAVCs of up to 100% of their NHS salary, less contributions to other registered pension schemes including the NHS scheme.

- On retirement, members will also be able to take up to 25% of their invested NHS MPAVC funds, as a tax-free 'pension commencement' lump sum.

The amendments made in the instrument should be read with the rules in the Finance Act 2004 and the related transitional regulations made under that Act. In particular, the Registered Pension Scheme (Modification of the Rules of Existing Schemes) Regulations 2006 (S.I. 364/2006) have permitted the continuation of an 'earnings cap' in the Superannuation Scheme Regulations (regulation 4 of S.I. 2006/364) and there are no amendments removing the relevant earnings cap from regulation C1(2) of the Superannuation Scheme Regulations.

Consultation

The instrument has been the subject of consultation with representatives of NHS employers and employees and with other Government Departments.

Consolidation

In the Executive Note to S.S.I 2005/544 we recognised that, with the numerous amendments to the Superannuation Scheme Regulations, users would benefit from a consolidation. Completing the consolidation is a major exercise but we are working towards laying a consolidation. We have prepared a draft consolidation and the consultation period for this draft ended in February 2006. Following the consultation, we are preparing a draft to be made as soon as practically possible. However, the current instrument is considered of sufficient importance not to delay until the consolidation draft is ready to be made. The changes will be incorporated into the consolidation.

Financial Effects

This instrument has no impact on business, charities or voluntary bodies and no separate Regulatory Impact Assessment is required.

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May 2006
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