

**EXPLANATORY MEMORANDUM TO  
THE NATIONAL HEALTH SERVICE PENSION SCHEME (AMENDMENT)  
REGULATIONS**

**2011 No. 591**

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 Active members of the NHS Pension Scheme may purchase additional pension through the payment of additional voluntary contributions.

2.2 The purpose of this instrument is to change the index used to calculate cost of living increases applied to the amount of pension purchased before it comes into payment.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 Public service pensions are increased under the provisions of the Pensions (Increase) Act 1971 and section 59 of the Social Security Pensions Act 1975. The latter provides for public service pensions to be uprated at the same time and by the same percentage as the increase in the additional State Pension, which is based on the September-to-September increase in prices. This will be based on the Consumer Price Index (CPI) measure from April 2011.

4.2 This means that NHS Scheme pensions in payment and in deferment will increase in line with CPI from April 2011. This instrument ensures that additional pension purchased by members will be uprated in the same manner where the member elects to make the purchase on or after 1 April 2011.

**5. Territorial Extent and Application**

The instrument applies to England and Wales.

**6. European Convention on Human Rights**

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy Background - What is being done and why**

7.1 Regulations covering both the 1995 and the 2008 Sections of the NHS Pension Scheme currently provide for the original amount of additional pension the member elected to buy to be uprated in line with changes in the Retail Price

Index (RPI). This increase is applied up until the point the additional pension comes into payment (“a pre-payment increase”). Once in payment, the additional pension increases in the same way as the member’s earned pension, in accordance with the provisions of the Pensions (Increase) Act 1971.

7.2 These amendments provide for pre-payment increases to additional pension to move to the CPI basis where a contract is taken out on or after 1 April 2011. Existing contracts taken out before 1 April 2011 will continue to have pre-payment increases only applied in line with changes in the RPI. These changes will be reflected in the future cost to members of buying additional pension.

### **Consolidation**

7.3 An informal consolidated text of the 1995 and 2008 Regulations amended by this instrument was made available to NHS Trade Unions and other stakeholders during the consultation period. Informally consolidated texts of both sets of regulations incorporating all changes implemented up to and including those which came into effect on 23 July 2010 and are available on the NHS Pensions website and may be viewed here <http://www.nhsbsa.nhs.uk/Pensions/2963.aspx>

7.4 Whilst the necessary scoping work to consolidate both the 1995 and 2008 Regulations has started, further work on the project has been deferred pending the outcome of the Independent Public Service Pensions Commission led by Lord Hutton.

### **Consultation on the draft regulations**

7.5 A formal consultation exercise on the amending regulations began on 3 December 2010 and ended on 15 February 2011.

7.6 Amongst those consulted were: NHS Trades Union representatives, NHS Employers; NHS Pensions (the Scheme Administrators); other public service pension Schemes; Government Actuary’s Department; the National Audit Office; the devolved administrations; and HM Treasury.

## **8. Consultation outcome**

8.1 We received four responses to the consultation exercise. Three were from members who were, in the main, opposed to the Government’s policy of adopting CPI as the index used to calculate increases to public service pensions generally.

8.2 The GMB Union responded on behalf of the NHS staff they represent. The GMB were also opposed to the Government’s policy of adopting CPI generally. They also expressed a view that it was appropriate to retain the RPI index for pre-payment increases to additional pension. However, they recognised that the change to CPI will be taken into account when setting the cost to members of purchasing additional pension.

## **9. Guidance**

Information about this change is currently available to NHS employers and scheme members on the scheme administrators (NHS Pensions) website.

A link to the newsletter is here

<http://www.nhsbsa.nhs.uk/Documents/Pensions/TN1 - 2011 - Employer Newsletter.pdf>

## **10. Impact**

An impact assessment has not been prepared for this instrument because it will not lead to costs or savings for business, public or civil society organisations, regulators or consumers.

## **11. Regulating small business**

The changes do not affect small business.

## **12. Monitoring & review**

NHS Pension Scheme changes are developed, monitored and reviewed in partnership with the NHS Employers organisation and NHS trade unions (the NHS Review Partners), in the light of formal and informal consultation procedures. The Partners report and recommend changes to a 'Governance Group' representing employers, the Council of NHS Trades Unions and the Department of Health, which in turn makes recommendations to the Secretary of State for Health and HM Treasury.

## **13. Contact**

Mrs. Peta Cowan at the Department of Health Pensions Policy Team, Tel: 01253 774921 or e-mail [Peta.Cowan@dh.gsi.gov.uk](mailto:Peta.Cowan@dh.gsi.gov.uk) can answer any queries regarding the instrument.