**Annex B**

**Creating Pension Overlap**

Pension overlap arises in the same way that overlap profits may arise for tax purposes; namely where the same superannuable income is pensioned twice.

In the same way that one should not be taxed twice upon the same income, nor should one receive the benefit of an uplifted pension by pensioning income more than once.

Pension overlap is created in the following circumstances:

1. The transitional arrangements upon transfer to the new contract at 1 April 2004, where you had been a Practitioner Scheme member prior to that date, AND

2. The method of pensioning income in:
   a) the opening years of Practitioner membership, AND
   b) certain changes to annual accounting dates.

1. Transitional arrangements

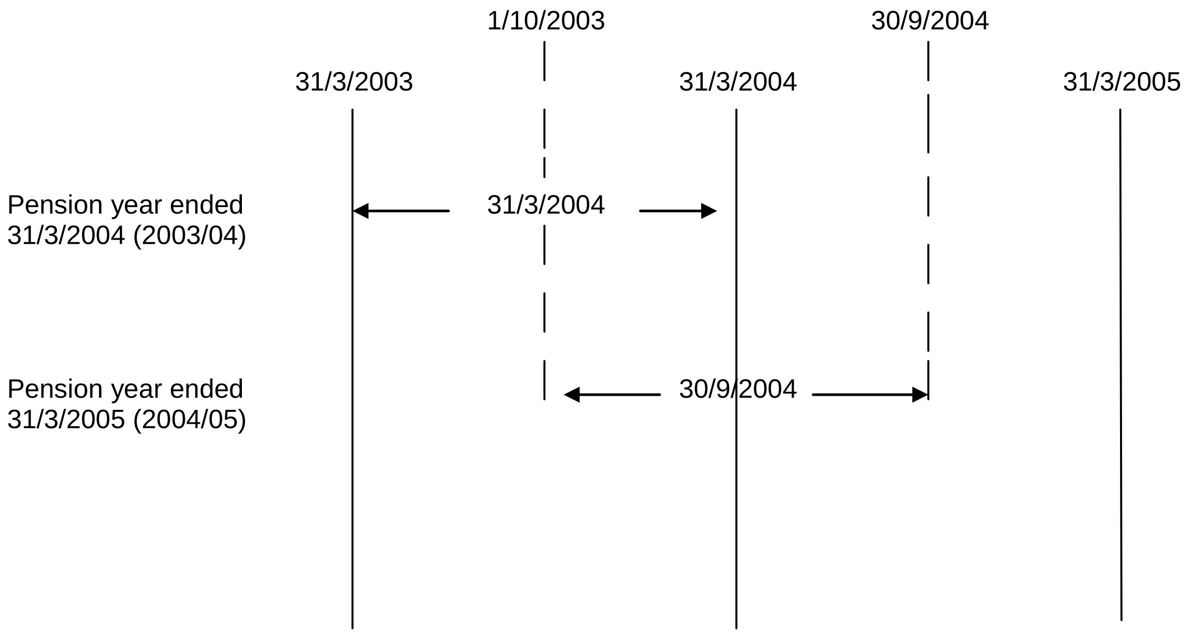
New HPSS Superannuation Scheme Regulations came into force on 1 April 2004. At that time it was determined that superannuable HPSS income, for the pension year ended 31 March, would be broadly based upon taxable profits (after adjustment) in the corresponding tax year (2004/05 for the first year).

For tax purposes, businesses are taxed in the tax year upon those annual accounts where the year end falls into that tax year. For instance, where a set of business accounts is for the year ended 30 September 2004, that would fall into the tax year 2004/05 (i.e. the year that runs from 6 April 2004 to 5 April 2005).

Following the tax principle, it was therefore determined that, taking the above example, a GP who was taxed in 2004/05 on their Practice accounts for the year ended 30 September 2004 would also have their HPSS pension for the pension year 2004/05 (year ended 31 March 2005) based upon those same accounts.

As, up to 31 March 2004, HPSS superannuable income was determined by the actual income earned to that date, the assessment of superannuable income in the following year may cause some income to be pensioned twice where the accounting year end date is not 31 March.

Again following the example above, for a GP with an accounting year ended 30 September:




As can be seen from the above, because the income in 2003/04 has been pensioned right up to 31 March 2004, and the accounting year ended 30 September 2004 is assessed for pension purposes in 2004/05, a certain amount of income has been pensioned in both years. It can be seen that the period from 1 October 2003 to 31 March 2004 has been pensioned in both years. On a pro-rata basis of the superannuable pay calculated for 2004/05, this period represents the pension overlap and would have been entered at Box 21b of the 2004/05 Certificate. This is the figure that will now be entered at Box 39a of the 2005/06 Certificate as overlap profits brought forward.

This amount of pension overlap will be carried forward to be deducted from the superannuable pay of a future year unless utilised as described later.

2. Pensioning income in:

**a) The opening years of Practitioner service**

First year of Practitioner service

Again, the method of pensioning HPSS income follows that for taxing income. In one's first year of self employment, you are taxed on your profits from the date of commencement to the following 5 April. Similarly, for HPSS superannuation purposes, you will be pensioned upon your relevant HPSS profits for the period from commencement to the following 31 March, using the taxable profits relevant for that tax year as the basis of the superannuable pay (even if that profit is for the period to 5 April – please refer to the completion notes in respect of Box G of the certificate).

Second year of Practitioner service

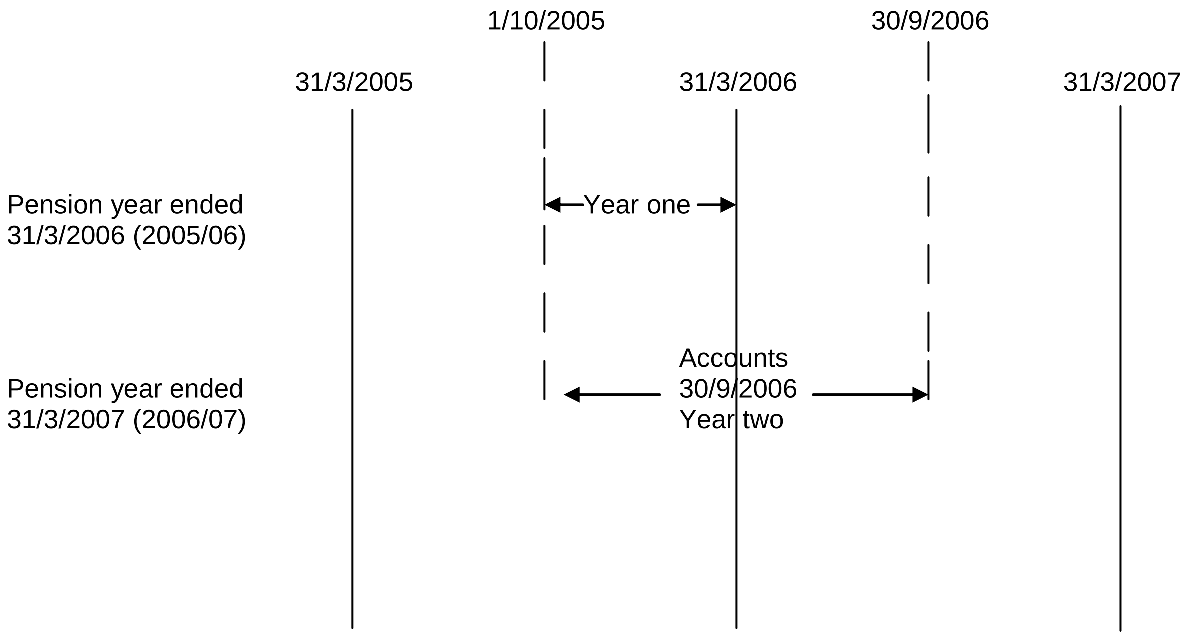
i) If the accounts are made up to a date in the tax year representing exactly 12 months of income, then those accounts are used as the basis for the superannuable pay for the second year.

**Example**

Practitioner starts 1 October 2005, in a practice which has a usual accounting year end of 30 September.

Tax year 2005/06
Tax on profits from commencement to following 5 April, i.e. from 1 October 2005 to 5 April 2006. This forms the basis of superannuable pay for the pension year ended 31 March 2006.

Tax year 2006/07
Practice accounts will be made up in this tax year to 30 September 2006




The partner joining at 1 October 2005 is pensioned on the period 1 October 2005 to 31 March 2006 in 2005/06 and on the year ended 30 September 2006 in 2006/07.

The overlap pension to be carried forward from 2006/07 onwards (not 2005/06 as no double pensioning had occurred then) is therefore the amount for the period 1 October 2005 to 31 March

2006, because this has been pensioned in 2005/06 and 2006/07. This is the amount to enter in Boxes 39b and 39c of the Certificate.

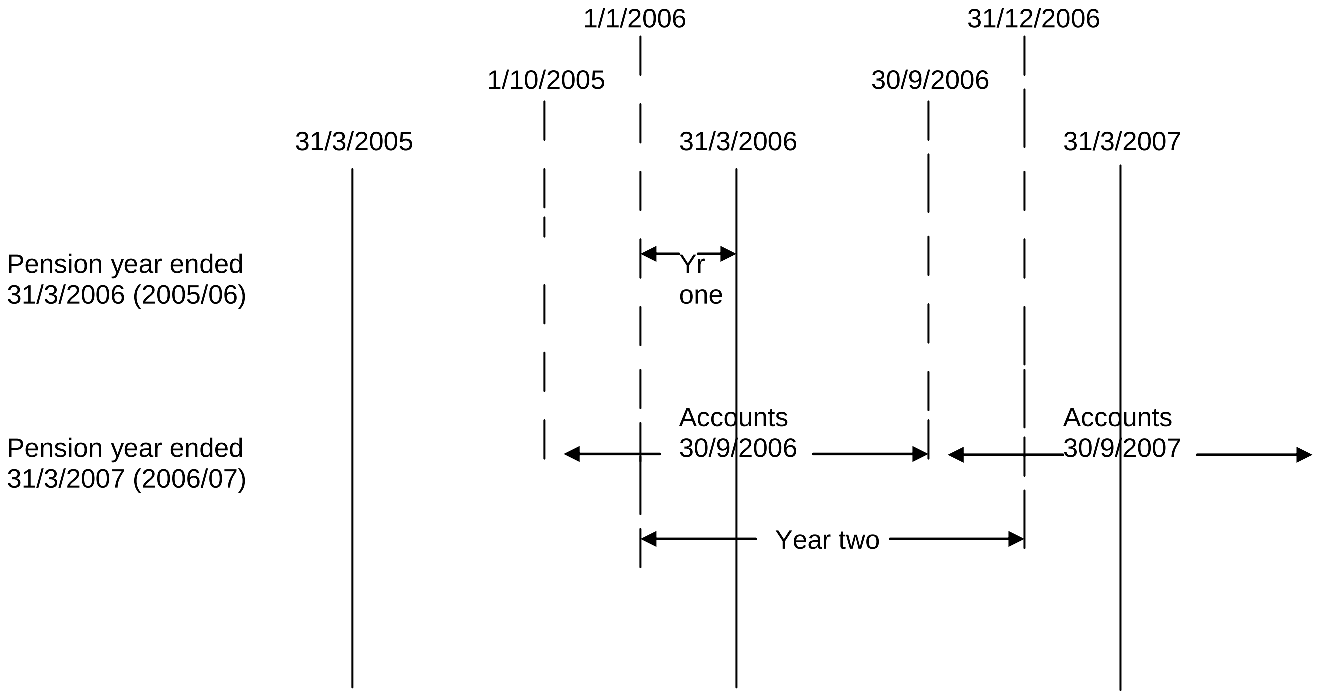
ii) If accounts are made up to a date in the second tax year, but these represent a period of less than 12 months income for the joining Practitioner, tax is charged on the profits of the first 12 months of Practitioner service. Similarly, this period will also represent the starting point for the calculation of superannuable pay.

**Example**

Practitioner starts 1 January 2006, in a Practice that has a usual accounting year end of 30 September.

Tax year 2005/06
Tax on profits from commencement to following 5 April, i.e. from 1 January 2006 to 5 April 2006. This forms the basis of superannuable pay for the pension year ended 31 March 2006.

Tax year 2006/07
Practice accounts will be made up in this tax year to 30 September 2006. However, as the new Practitioner has only been a member since 1 January 2006, this only represents 9 months of service. The GP is therefore taxed on his first 12 months of service; being the year from 1 January 2006 to 31 December 2006. This will entail adding together the profits from the accounts to 30 September 2006 (9 months) to a proportion of the profits from the accounts for the following year ended 30 September 2007 (3 months).




Looking at the overlap situation above, it can be seen that, for ongoing partners in Practice, their superannuable pay for 2006/07 is derived from the accounts for the year ended 30 September 2006. However, the partner joining at 1 January 2006 is pensioned on the period 1 January 2006 to 31 March 2006 in 2005/06 and on the year ended 31 December 2006 in 2006/07.

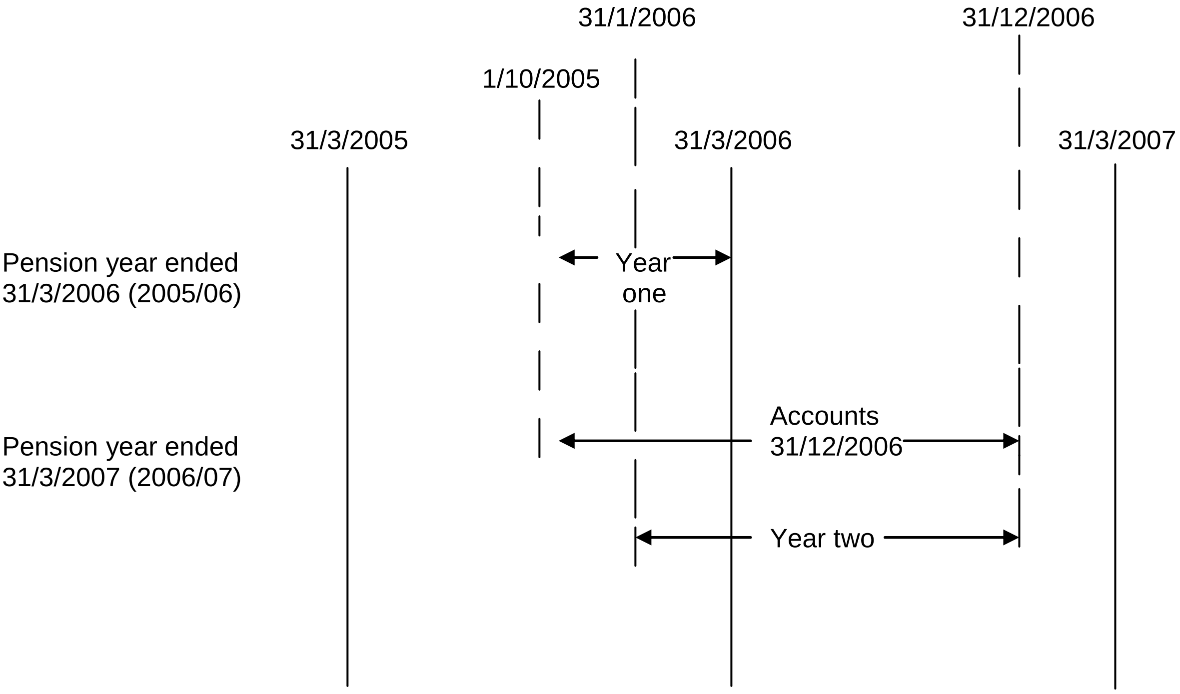
The overlap pension to be carried forward from 2006/07 onwards (not 2005/06 as no double pensioning had occurred then) is therefore the amount for the period 1 January 2006 to 31 March 2006, because this has been pensioned in 2005/06 and 2006/07. This is the amount to be entered in Box 39b and Box 39c of the Certificate.

iii) If accounts are made up to a point in the second tax year for a period of longer than 12 months, then the new Practitioner would be taxed in that year on the profits of the 12 months to the accounting end date that falls into that year.

**Example**
Practitioner starts 1 October 2005, in a practice which has a usual accounting year end of 30 September. However, accounts are then made up for the 15 month period from 1 October 2005 to 31 December 2006.

Tax year 2005/06
Tax on profits from commencement to following 5 April, i.e. from 1 October 2005 to 5 April 2006. This forms the basis of pensionable pay for the pension year ended 31 March 2006.

Tax year 2006/07
Practice accounts will be made up in this tax year to 31 December 2006. As the new Practitioner has been a member since 1 October 2005, this represents 15 months of service. The doctor is therefore taxed on the 12 months to the new accounting date; being the year from 1 January 2006 to 31 December 2006. This will entail proportioning the profits from the 15 month period to 31 December 2006.




Looking at the overlap situation above, it can be seen that the partner joining at 1 October 2005 is pensioned on the period 1 October 2005 to 31 March 2006 in 2005/06 and on the year ended 31 December 2006 in 2006/07.

The overlap pension to be carried forward from 2006/07 onwards (not 2005/06 as no double pensioning had occurred then) is therefore the amount for the period 1 January 2006 to 31 March 2006, because this has been pensioned in 2005/06 and 2006/07. This is the figure that should be entered in boxes 39b and 39c of the Certificate.

**b) Certain changes to annual accounting dates**

The tax rules for changes in accounting dates generally ensure that 12 months of profits are taxed in any one tax year, other than the years of commencement (as described above) and cessation (described below). The same is true for assessing profits for pension purposes.

i) Where accounts are made up to a date earlier in the tax year than the previous date, then profits of the 12 months to the new date are taxed. This period will also form the basis of the superannuable income for that pension year. This will, however, result in new pension overlap being created and carried forward as there will be an amount of profit that has been pensioned twice. Please refer to the example at 2a(ii) above for details on how this works.

ii) Where accounts are made up to a date later in the tax year than the previous date, then the profits of the whole extended period will be charged to tax less an amount of tax overlap profits to ensure that 12 months of profits only are charged to tax. The same applies to pension overlap. In this instance, the figures used to calculate the superannuable pay in the Certificate up to Box 38 will reflect the longer period and pension overlap brought forward at

Box 39a will be used to reduce the superannuable period back to 12 months by entering the relevant proportion of the brought forward overlap into Box 39 to ensure that Box 40 reflects a figure for 12 months. The amount then carried forward at Box 39c will be the entry brought forward at Box 39a less that utilised in the year at Box 39.

## Utilising Pension Overlap

It has been stated that profits in respect of a Practitioner position should not be taxed more than once. When a Practitioner ceases in a position, through a change of Practice or retirement, the whole of the pension overlap generated at whatever time in respect of **that** position should be deducted from the final years superannuable pay, but only to the extent of reducing superannuable pay to zero.

Should there be any surplus of pension overlap after the reduction of pensionable pay to zero, this is to be carried back to the previous year to reduce the pensionable pay for that period. It should be noted here that an amended Certificate of Pensionable Profits for the previous year needs to be submitted to CSA for them to amend the pension record and arrange a repayment of the overpaid contributions.

In this way, it can be seen that pay in respect of a particular position is not pensioned twice. Should unused pension overlap be carried forward and set against pay from a future position, then the superannuable pay for the previous position will be overstated.

## Note regarding differing accounting year ends

It may be possible to have two different accounting year ends falling within one tax year. For instance, your partnership year end falling into 2005/06 may be 30 June 2005, but your private fee self employment income is assessed on its own year end of 31 December 2005.

In these circumstances it will be necessary to apportion the superannuable pay entered at Box 40 of the Certificate between the partnership and the self employment income so that a separate calculation can be made for each. This is because each position will have a different period reflecting income pensioned twice. This may be achieved by apportioning the entry at box 40 by the ratio of superannuable partnership and self employment income to total pensionable income.

The fraction can be arrived at as follows by reference to Boxes on the Certificate:

| Partnership income | Self employment income |
|---|---|
| $\dfrac{\text{Box 1 less Box 7}}{\text{Box 6 less Box 12}}$ | $\dfrac{\text{Box 2 less Box 8}}{\text{Box 6 less Box 12}}$ |

When such a split is necessary, you must use box 70 of the Certificate to note down the fractions used and the split of the superannuable pay.

Should this method provide an anomalous result, you may use your own method to produce a more reasonable division. Again, full details must be given in Box 70 of the Certificate where this is done.