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HSC Pension Scheme – proposed amendments to scheme regulations regarding member contributions phase 2 and miscellaneous amendments

Consultation Document & Explanatory Notes

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Introduction

The Department of Health is consulting on amendments to the Regulations that provide the rules for the HSC Pension Schemes.

There are two HSC Pension Schemes: the reformed 2015 scheme and the older, closed scheme which is divided into the 1995 and 2008 sections. Accordingly, there are three sets of regulations under which entitlement to pension and other benefits are calculated:

- The Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995 (S.R. 1995 No.95)
- The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008 (S.R. 2008 No.256)
- The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015 S.R. 2015 No.120).

These are referred to collectively in this document as the 'Pension Scheme Regulations'.

The Department of Health keeps the rules of the pension scheme under review to ensure it continues to help the HSC attract and retain the staff needed to deliver high quality care for patients. The changes proposed in this consultation document are split into the following sections:

- Changes to the member contribution structure from 1 April 2024
- Changes to the employer contribution rate from 1 April 2024
- Changes to abatement provisions for special class status (SCS) members
- Changes to scheme access policy

The Department welcomes views on the proposals set out in this document.

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Consultation questions

The Department welcomes any comments or views on the proposals set out in this document.

Respondents are invited to consider the following questions:

Question 1

Do you agree or disagree with the principle to remove the first tier of the HSC Pension Scheme member contribution structure at a future point?

This tier provides a subsidised contribution rate to members who do not qualify for tax relief. We are seeking views on the principle to remove it at the point that HMRC begins to make top-up payments directly to eligible members to provide the benefit of tax relief directly.

- Agree
- Disagree
- Don't know

If you disagree or don't know, please explain your answer.

Question 2

Do you agree or disagree that uplifting thresholds in line with CPI and automating the process is a suitable approach which complies with the principles outlined in this section?

- Agree
- Disagree
- Don't know

If you disagree or don't know, please explain your answer.

Question 3

Do you agree or disagree with the proposal to set the contribution threshold for the next 4-year valuation period (2024 to 2028 scheme years)?

- Agree
- Disagree
- Don't know

If you disagree or don't know, please explain your answer.

Question 4

Do you agree or disagree with the suggestion to freeze the entry point to the top tier of the member contribution structure?

This tier is occupied by members who receive the benefit of higher rate tax relief on their pension contributions. We are seeking views on the principle of removing this tier as the default lever to ensure the scheme continues to collect the 9.8% contribution yield.

- Agree
- Disagree
- Don’t know

If you disagree or don’t know, please explain your answer.

Question 5

Do you agree or disagree that the introduction of real-time re-banding would produce a more accurate outcome for the calculation of member contribution rates?

Real-time re-banding will assign an updated pension contribution rate in the pay period where pay changes for members with pensionable pay which fluctuates between pay periods.

- Agree
- Disagree
- Don’t know

If you disagree or don’t know, please explain your answer.

Question 6

Are you responding as or on behalf of a non- HR, Pay & Travel Portal (HRPTS) payroll provider?

- Yes
- No

If you said yes, do you have the capacity to implement real-time re-banding?

- Yes
- No
- Don’t know

If you said no or don’t know, please explain why.

Question 7

Do you agree or disagree with the proposal to amend the definition of overtime?

This will allow staff who work part time to pension additional income up to whole time, with limitations where members have partially retired in the previous 12 months?

- Agree
- Disagree
- Don’t know

If you disagree or don’t know, please explain your answer.

Question 8

If you have any further comments on the proposed increase to the employer contribution rate from 1 April 2024, please outline them.

Question 9

Do you agree or disagree that the proposal to amend HSC Pension Scheme regulations has the intended effect of permanently removing abatement for SCS members?

- Agree
- Disagree
- Don’t know

If you disagree or don’t know, please explain your answer.

Question 10

Do you agree or disagree with the proposal to amend HSC Pension Scheme regulations with the intended effect of removing reference to the lifetime allowance?

- Agree
- Disagree
- Don’t know

If you disagree or don’t know, please explain your answer.

Question 11

Do you agree or disagree with the proposal to clarify the partial retirement regulations to expressly exclude access to this option via entering into a salary sacrifice arrangement?

- Agree
- Disagree
- Don’t know

If you disagree or don’t know, please explain your answer.

Question 12

Do you agree with the proposals to make minor amendments to the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995, the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008 and the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015.

- Agree
- Disagree
- Don’t know

If you disagree or don’t know, please explain your answer.

Question 13

Are there any considerations and evidence that you think the Department should take into account when assessing any equality issues arising as a result of the proposed changes?

Question 14

Do you have any further overall comments to make?

How to respond:

Comments on the proposals can be submitted using the consultation response document (see Annex A) to:

modernisation@health-ni.gov.uk

or by post:

DoH Pensions Policy Team
Waterside House

Room G33
75 Duke Street

Londonderry

BT47 6FP

Please use email if possible as mail will only be monitored periodically.

The consultation will close at **5pm** on **22 January 2024**.

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Confidentiality of information

For this consultation, we may publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations and individuals responding in a professional capacity will be published. We will remove email addresses and telephone numbers from these responses; but apart from this, we will publish them in full. For more information about what we do with personal data please see our consultation privacy notice.

Your response, and all other responses to this consultation, may also be disclosed on request in accordance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR); however, all disclosures will be in line with the requirements of the Data Protection Act 2018 (DPA) and the UK General Data Protection Regulation (UK GDPR) (EU) 2016/679.

If you want the information that you provide to be treated as confidential it would be helpful if you could explain to us why you regard the information you have provided as confidential, so that this may be considered if the Department should receive a request for the information under the FOIA or EIR.

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Reforming member contributions: phase 2

Background

The HSC Pension Scheme is a valuable and valued part of the reward package for HSC staff, helping employers recruit and retain their workforces. It is one of the best pension schemes available, providing generous retirement and life assurance benefits including a retirement lump sum (optional in some cases), an annual pension that increases yearly in line with price inflation and pensions for a surviving partner and dependants.

The scheme is contributory. Members and their employer are required to pay towards the cost of benefits they build up in the scheme. An actuarial valuation is conducted every 4 years to ensure the level of contributions made by members and employers meet the full cost of their pension rights as they accrue them.

At present employers contribute 22.5% of each member's pensionable earnings towards the cost of scheme benefits, with changes expected from 1 April 2024. Members are required collectively to contribute 9.8% across the whole scheme membership. This is known as the member contribution 'yield'.

While the yield is a fixed percentage, there are a range of approaches that could be taken to ensure that 9.8% is collected from across the whole scheme membership. The simplest method is to ask each member to contribute a flat rate of 9.8%. An alternative is to share out the 9.8% requirement 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 all public service pension schemes with the exception of the non-contributory Armed Forces Pension Scheme.

Tiering has allowed the HSC Pension Scheme to reduce potential financial barriers and encourage all staff to participate in the generous pension scheme that is a major component of the HSC reward package and not miss the opportunity to make good quality provision for their retirement. It is intended as a mutual scheme for the whole HSC sector. The HSC workforce encompasses a broad range of professions and occupations with a wide difference in earnings - from porters and healthcare assistants to senior nurses and doctors. Tiering has also allowed the scheme to recognise through higher contribution rates the beneficial effect of income tax relief on contributions and the additional value that higher earners tend to achieve from pension benefits built up under the 'final salary' accrual method that is a feature of the older legacy scheme.

Tiering has helped deliver the following shared priorities that underpin the current approach to member contributions:

- include protections for the lower paid
- minimise the risk of opt-outs from the scheme across the whole membership
- ensure that the scheme remains sustainable and a valuable part of the reward package and affordable to all members.

Changes to member contributions

The contribution structure is currently being reformed following a comprehensive review in 2021. The review was conducted following recommendations provided by SAB, who reached full agreement that:

- the principles underpinning the previous contribution structure should be retained, including protection for the lower paid
- the risk of opt-outs should be minimised
- work should be done to ensure the scheme remains a sustainable and valuable part of the HSC total reward offer
- 'cliff edges' in the contribution structure should be resolved
- there was a pressing need to explore ways to minimise scheme opt-outs and mitigate other issues caused by the impact of pension taxation
- a move to use actual pay, rather than whole-time equivalent (WTE) pay, to determine contribution rates would be appropriate.

From 1 November 2022, the department introduced changes to the member contribution structure, including changing the amount that members pay for their pension benefits. This was the subject of a previous consultation, HSC Pension Scheme: proposed changes to member contributions. It was agreed as part of this consultation process that the reforms to member contributions would be implemented over 2 phases to give members time to adjust to the changes.

The previous consultation delivered what is known as phase 1 of the changes to member contributions. The department received advice and recommendations of the SAB, and the previous consultation process resulted in a statutory regulation which made changes to:

- calculate member contribution rates based on actual pay instead of notional WTE pay
- amend the structure for member contributions and the amount of contributions payable by different cohorts of members

- amend scheme regulations so that the member contribution tier thresholds could be annually increased in line with AfC pay awards.

Further detail on the review of member contributions to the point of the delivery of phase 1 is in the previous consultation document.

Phase 1 put in place an interim structure and we now intend to take the next step and implement phase 2 from 1 April 2024. This will conclude the review of member contributions and complete the move to the new tiers and rates.

Under the new structure, the number of tiers and range between the lowest and higher tier was reduced. This also meant that the gap between some tier boundaries was reduced. As part of the previous consultation process, it was agreed that the move to implement the final updated member contribution structure would be staggered over 2 phases in order to give members time to adjust.

This consultation sets out proposals to deliver the agreed contribution structure and some additional changes to member contributions from 1 April 2024, in what is known as phase 2 of the member contributions review.

Our previous experience of phase 1 indicated areas for additional change and improvement that were not included in the phase 1 consultation package. These items are the introduction of futureproofing, real-time re-banding and the removal of the lowest tier in line with planned changes by HM Revenue & Customs (HMRC). These areas are set out in further detail in the following sections.

Current rates

In common with other public service pension schemes the HSC Pension Scheme applies a tiered contribution approach. Pensionable pay amounts are grouped into tiers and a contribution rate is set for each tier. The member pays a contribution rate based on their actual pensionable pay. The following table shows the member contribution structure that has been in place since the phase 1 changes from 1 November 2022:

Table 1: member contribution structure since 1 November 2022

Colum 1 Pensionable earnings band	Column 2 Contribution percentage rate
Up to £13,246	5.1%
£13,247 to £16,831	5.7%
£16,832 to £22,878	6.1%
£22,879 to £23,948	6.8%
£23,949 to £28,223	7.7%

£28,224 to 29,179	8.8%
£29,180 to £43,805	9.8%
£43,806 to £49,245	10.0%
£49,246 to £56,163	11.6%
£56,164 to £72,030	12.5%
£72,031 and above	13.5%

Proposed changes to member contributions

This section sets out the proposed changes to the member contribution structure to be implemented from 1 April 2024. The changes are split into 4 sections, as follows:

- implementation of updated member contribution structure as agreed during the phase 1 consultation, with the additional proposed removal of the bottom tier
- futureproofing of the member contribution structure
- real-time re-banding
- changes to the pensionability of overtime up to whole time for members who work part time.

Each of the following sections sets these items out in greater detail.

The implementation of the updated member contribution structure as agreed during the phase 1 consultation is not subject to further views, as it has already been agreed. This consultation seeks views from stakeholders on the remaining elements above, which are set out in greater detail in the following sections.

The previous consultation set out the contribution rates following the implementation of phase 2. However, these contribution rates were assigned to the member contribution thresholds as they stood in February 2022. In the intervening time, the member contribution thresholds in the HSC Pension Scheme have been increased in line with the 2022/23 AfC pay award. This means that the updated member contribution structure from 1 April 2024 has increased thresholds compared to the previous consultation to ensure members continue to receive the full benefit of the value of the AfC pay award from 2022 to 2023.

In line with what was agreed in the previous consultation, the member contribution structure from 1 April 2024 is outlined in table 2.

Table 2: proposed HSC Pension Scheme member contribution threshold structure from 1 April 2024 to 31 March 2028 (before any future increases in thresholds in those years).

Pensionable earnings thresholds	Contribution rate from 1 April 2024
Up to £13,246	5.2%
£13,247 to £23,948	6.5%
£23,949 to £29,179	8.3%
£29,180 to £43,805	9.8%
£43,806 to £56,163	10.7%
£56,164 and above	12.5%

Implementation of updated member contribution structure and future reconsideration of the first tier

The previous phase 1 consultation set out proposals to reduce the overall number of contribution tiers, and also to reduce the range between the contribution percentage paid by the lowest and highest tiers. Taken together, this means that members on the whole move closer to paying the required 9.8% yield, but lower earners continue to benefit from a reduced rate in order to encourage participation. This also means that the gaps between contribution tiers are lessened, which helps to deliver the commitment to reduce the impact of ‘cliff edges’ in the member contribution structure.

Under the current member contribution structure, and the updated structure proposed in the previous consultation, the first tier is additionally discounted to reflect that those with HSC earnings (and no additional income) at that level do not benefit from net pay tax relief on pension contributions because their earnings are within the personal allowance. Under the current structure, members earning below the personal allowance have their contributions discounted from 5.7% to 5.1% to provide the net benefit of tax relief on contributions. The previous consultation set out that under the proposed phase 2 structure members with total taxable earnings under the personal allowance would have their contribution rate discounted further from 6.5% to 5.2% to provide a continuation of this benefit.

However, the department is aware of upcoming government changes led by HMRC which will provide top-up payments to eligible individuals who have contributed to a net pay pension scheme and have total taxable income below the personal allowance. Further information on the implementation and operation of these changes can be found in a policy paper from HMRC. The measure will come into force for contributions made in the tax year 2024 to 2025, with payments being made as soon as possible after the tax year in which the contribution is paid ends. The payments will be chargeable to income tax.

The purpose of these payments is to ensure equal tax relief is provided to members of all occupational pension schemes, regardless of how their scheme applies tax relief. Currently, members of schemes which use relief at source (RAS) arrangements receive a 20% top-up on their pension saving regardless of whether their earnings are within the personal allowance, while those in net pay schemes (such as the HSC Pension Scheme) receive tax relief at their marginal rate. This means that members with total taxable earnings within the personal allowance receive 0% tax relief, and that such members in net pay schemes have less take home pay than comparative members of RAS schemes. As explained above, the first tier in the member contribution structure was designed to provide a rate that was further subsidised to mirror the benefit of tax relief.

The purpose of the planned government changes is to rectify the anomaly in tax relief between net pay and RAS schemes for members with earnings below the personal allowance. As a result of the changes, members across all occupational pension schemes with total taxable earnings within the personal allowance should receive similar outcomes regardless of how their pension scheme is administered for tax purposes.

Legislation to proceed with these changes has now received Royal Assent. The expectation is that top-up payments will be made from the 2025 to 2026 tax year in respect of net pay contributions made in the previous (2024 to 2025) tax year and will be based on an individual's total taxable income in that previous tax year. HMRC is currently developing the processes for identifying eligible individuals and making top-up payments. Where HMRC identifies that a top-up payment is due, they will contact eligible individuals to obtain details so that the top-up payment can be made directly to the individual. Timings for the top-up payments may vary depending on the individual's circumstances, such as whether they are also in tax self-assessment. For HSC Pension Scheme purposes, the vast majority of affected members will only be on Pay As You Earn (PAYE).

In light of these developments, the department considers that it may be appropriate to remove the first HSC Pension Scheme contribution tier at a future point to align with the introduction of the top-up payments. The department recognises the importance of aligning any future removal of the first tier to coincide with the introduction of the top-up payments to ensure that members with total taxable earnings below the personal allowance do not temporarily experience a reduction in take home pay as a result of the subsidised contribution rate being removed before the top up is payable.

These changes are not proposed for 1 April 2024, but they are outlined in this consultation in order to gather views from stakeholders. The department will use those views to assess the case for removing the first tier at a later point once the top-up payments are in effect.

Improving the process of indexing the contribution thresholds

In successive years, the member contribution tier thresholds in the HSC Pension Scheme have been increased in line with the value of the AfC pay award for Northern Ireland. The purpose of this is to avoid an increase to pensionable pay due to the annual pay award unintentionally resulting in a take-home pay reduction. This could occur in situations where a member is close to a contribution tier boundary and receives a pay award that tips them into a higher tier. If the value of the jump between contribution rates is greater than the percentage value of the award, the member would have a temporary reduction in take-home pay. Even if the value of the pay award was greater than the increase in member contributions, members would still receive less than the full value of the pay award as a result of paying increased contributions. Therefore, increasing thresholds in line with the AfC pay award for Northern Ireland ensures that members receive the full value of the award and reduces the possibility that members will move into a higher contribution tier solely as a result of receiving the pay award.

Under the current process, the department must conduct a public consultation process and lay a statutory rule between the AfC pay award being agreed upon and the start of the award being paid to staff. As pay deals are often agreed late in the financial year, this creates a clear risk that the threshold uplifts cannot be delivered in time to implement the award. The department has committed to considering how this process for uplifting thresholds in line with the pay award can be streamlined or improved in future years.

An indexing solution would mean that contribution thresholds could be changed without the need to directly amend scheme regulations. This would greatly improve the efficiency of the process for uplifting contribution thresholds in future years, which will provide certainty to members regarding their payable contributions. There is a clear risk that the current process of laying a statutory rule in response to the completion of each pay award cannot be completed in sufficient time to align with the implementation of the award. This would create a scenario where some members temporarily have the value of the award eroded by increased pension contributions, which would undermine confidence in the award. This is particularly true where staff are paid weekly and are therefore likely to receive the pay award very soon after it is agreed.

To address this, we propose to amend regulations to insert a clearly defined process for implementing an annual threshold uplift which can be applied without the need for a further statutory rule each year. In determining the preferred approach, the department will follow the following principles:

- the need to promote stability in scheme administration and the collection of contributions
- the need to ensure the fairest outcome for all members when applying the index
- the need to implement a system for indexing which is transparent and can be delivered in a timely fashion.

With these principles in mind, the department proposes the following 2 options:

Option 1: automatically increase thresholds in line with the consumer price index (CPI)

A proposed approach is to index contribution thresholds in line with the rate of the CPI from the previous September. A similar approach has already been adopted in the Civil Service Pension Scheme (CSPS) and Teacher's Pension Scheme (TPS). Uplifting thresholds in line with CPI has the benefit of being somewhat more straightforward than the current approach because the uplift would be applied from 1

April each year based on the rate of CPI from the previous September. This provides a much greater period of time between the value of the index becoming known and it being applied to thresholds, compared to the current process of applying an uplift in line with the value of the AfC award for Northern Ireland as quickly as possible after the award is agreed.

CPI is also a singular figure that would be applied evenly to all HSC Pension Scheme member contribution thresholds. This avoids the potential added complexity that could occur with AfC uplifting, as it is possible that the AfC award may result in unequal uplifts to thresholds if, for example, the pay award is targeted at lower AfC bands. If the thresholds for the lower tiers of the member contribution structure are consistently uplifted by a greater percentage than the higher tiers, the overall member contribution structure would become compressed.

The department view is that the AfC award for Northern Ireland is the most appropriate of the pay awards to uplifts thresholds in line with. However, CPI indexing offers a neater solution to this issue by uplifting all thresholds in line with an index which is separate to the value of individual pay awards.

Under this option, the member contribution structure would be set for the period 2024 to 2028 scheme years (that is, 1 April 2024 to 31 March 2028) and contribution thresholds would be uplifted annually in line with CPI without the need for further amendments to scheme regulations.

Option 2: continue with the current process of manually uplifting thresholds in line with the AfC award but observe the required associated legislative process in Northern Ireland.

An alternative approach is to continue the process of amending regulations to manually uplift thresholds each year in line with the AfC pay award for Northern Ireland. This has happened previously in successive years.

It is not appropriate to automate this process due to the potential added complexity of the AfC award for Northern Ireland compared to CPI. For example, the value of the AfC award may be applied differently to different AfC bands if pay is targeted. This means the scheme would be required to adjust threshold increases to account for areas of higher pay increase. There would therefore be a corresponding lack of certainly going forward in this method, compared to CPI, where the legislation could clearly set out that a single CPI figure is to be applied all bandings and there would be no need for any added calculation or process in between the index figure and the impact on the actual thresholds.

Going forward, if this became the settled option the department would also be required to observe the required associated legislative process to apply the threshold uplifts. This means it would not be possible to expedite the process of uplifting thresholds to ensure they are uplifted in time for the value of the pay award becoming payable. As a consequence, members would likely temporarily pay increased pension contributions in the first pay periods following the introduction of a pay award.

We anticipate it would take at least 2 months between the pay award being agreed and the uplifted thresholds being applied. Depending on the specific timings each year, this would mean disruption to 2 monthly pay periods following the introduction of the pay award. This is due to the time required following the agreement of the pay award to follow the required associated legislative process to amend regulations, and also to allow the HR, Pay & Travel Portal (HRPTS) payroll system the required time to build the uplifted thresholds into the system and distribute the new structure to employers.

The department considers that it is preferable to index thresholds to CPI rather than continuing the process of manually uplifting thresholds in line with the AfC award for Northern Ireland. As set out above, uplifting thresholds in line with AfC automatically may be less well targeted and lead to unintended outcomes compared to CPI.

Given the clear need to automate the process for threshold uplifts, in light of the risks discussed earlier in this section, the department considers that option 1 is the preferred and deliverable solution. Indexing thresholds in line with CPI provides greater clarity for members as thresholds would be uplifted from 1 April based on the CPI figure from the previous September. This provides time for the scheme to make available clear guidance in advance of 1 April each year confirming the new thresholds which will apply. Automating this process also removes the difficult timings associated with the current process.

While we would broadly expect total pensionable pay to rise in line with CPI, meaning that indexing to CPI places no financial pressure on the scheme, freezing the entry point to the highest contribution tier (for members earning over £56,164) would further secure the financial stability of the collected yield. There is a rationale for freezing the entry point to the top tier should member contribution yield be expected to fall short in future, given the freezing of the higher rate income tax threshold until 2027 to 2028, which means that members in this tier will pay a relatively low net contribution rate due to receiving tax relief at a higher rate.

A key principle of progressive tiering is that members who earn more pay more for their pension benefits in order to encourage scheme participation across the workforce. Freezing the entry point to the top tier would have the long-term effect of smoothing the net contribution rates paid by members across the structure. The department will keep the impact of automated indexing under review.

Real-time re-banding

Phase 1 of the member contributions review delivered a change to calculate member contribution rates based on actual earnings rather than notional WTE earnings. This ensured that members paid a contribution rate that was more reflective of their pensionable pay and benefit accrual for that scheme year, particularly given that all active HSC Pension Scheme members accrue benefits in the 2015 Scheme from 1 April 2022. Unlike the legacy scheme which provides final salary benefits, the 2015 Scheme provides career average revalued earnings (CARE) benefits and therefore paying contributions based on actual earnings is a more accurate approach to take.

Building on this rationale, alongside the phase 2 contribution rates and tiers we intend to introduce real-time re-banding of member contributions from 1 April 2024.

Some HSC staff have pensionable pay which fluctuates between pay periods. For HSC Pension Scheme purposes, the frequency at which a member is paid is known as their pay period. At the start of each scheme year, officer members have their member contribution rate calculated based on their pensionable pay figure from the previous year. Scheme regulations require that if a member’s rate of pensionable pay changes during the scheme year they will pay a recalculated contribution rate from the start of the next pay period.

Fluctuating pensionable pay such as that caused by varying shift patterns requires employers to make a manual reassessment of member contributions and assign a new rate in the following pay period. The aim of real-time re-banding is to both standardise and automate practices to reduce the administrative burden on employers when using the payroll system.

Under real-time re-banding, the HRPTS payroll system will provide employers with the member contribution structure applicable under each pay period. For example, annual thresholds are divided by 12 for monthly pay periods and divided by 52.1428 for weekly pay periods.

The department is aware that a number of employers in the HSC Pension Scheme, particularly those in primary care, do not use the HRPTS payroll system portal. This consultation seeks their views on whether they are able to implement real-time re-banding as described in this section. The department proposes to amend regulations to implement real-time re-banding for employers who can deliver it via the HRPTS payroll system from 1 April 2024. However, the existing regulations which allow employers to apply a new contribution rate from the start of the next pay period will remain.

The intention of real-time re-banding is to automate the process of updating member contribution rates for members who have fluctuating pensionable pay that causes them to frequently cross tier boundaries. Assigning an updated contribution rate in the period that pay changes also ensures that members pay a more accurate contribution rate which better reflects their pensionable pay. This will produce a fairer and more consistent outcome for members.

The following tables demonstrate the mechanism to apply real-time re-banding to the member contribution structure.

Table 3: real-time re-banding tier thresholds by pay frequency:

Pensionable earnings thresholds	Contribution rate from 1 April 2024	Annual tier threshold	Monthly threshold	Weekly threshold	Fortnightly threshold	Lunar threshold
Up to £13,246	5.2%	£13,246.99	£1,103.92	£254.75	£509.50	£1019.00
£13,247 to £23,948	6.5%	£23,948.99	£1,995.75	£460.56	£921.12	£1842.23
£23,949 to £29,179	8.3%	£29,179.99	£2,431.67	£561.15	£1,122.31	£2,244.61
£29,180 to £43,805	9.8%	£43,805.99	£3,650.50	£842.42	£1,684.85	£3,369.69
£43,806 to £56,163	10.7%	£56,163.99	£4,680.33	£1,080.08	£2,160.15	£4,320.31
£56,164 and above	12.5%	No upper limit	No upper limit	No upper limit	No upper limit	No upper limit

Changes to the pensionability of overtime for staff who work part time

Under the 2015 regulations, overtime is non-pensionable and is defined as:

Any period of time worked in excess of the lesser of –

a. The period of time for which the person has contracted to work in the ordinary course of events; or

b. Such period of time as the scheme manager determines a person engaged in similar employment would reasonably be contracted to work in the ordinary course of events.

This means that for part-time staff, overtime is considered to be any hours worked in excess of contracted hours. This applies regardless of whether additional hours worked are paid at overtime rate. For part-time staff, hours up to 37.5 hours per week are paid at plain time, and hours in excess of 37.5 hours per week are paid at overtime rate. For staff who work full time, overtime is considered to be hours worked in excess of 37.5 hours per week and is typically paid at overtime rate.

There is therefore a historical gap in the interpretation of overtime worked up to whole time for staff who work part time. Longstanding practice in the 1995 and 2008 HSC Pension Scheme was to allow additional hours to be pensioned up to whole-time equivalent. The department proposes to amend the definition of overtime in 2015 regulations to insert the flexibility that existed in the 1995 and 2008 Sections. This means that staff who work part time can pension overtime worked up to 37.5 hours per week. Any overtime worked above 37.5 hours per week, for both part-time and full-time staff, will remain non-pensionable.

On 1 April 2024, the department plans to introduce a new partial retirement option for members of the 1995 Section of the HSC Pension Scheme, subject to the outcome of the recent consultation. This facility will allow members to partially retire and claim up to 100% of their 1995 Section benefits while continuing to work and accrue further pension in the 2015 Scheme. The availability of partial retirement is intended to better support members' work-life balance around retirement and may also help the HSC to retain valued experienced staff in the workforce.

Members who take partial retirement are required to reduce their pensionable pay by at least 10% for the 12 months following partial retirement. For GPs, a 10% reduction in commitment is required.

In some cases, where the employer and employee agree that the individual should continue to work in the same role, with no reduction in working hours, commitments or responsibilities, employers may review the structure of the employee's remuneration to achieve the 10% reduction in pensionable pay.

For example, this could be achieved by reducing an employee's core pensionable contract and the employee working discretionary, non-pensionable overtime.

We therefore also intend to insert a mechanism into the definition of overtime which confirms that any overtime or additional hours worked by staff who have partially retired within the previous 12 months is non-pensionable. This includes all additional work above their contracted hours. This facility is important for members who take partial retirement but wish to continue working at 100% capacity. They would achieve this by reducing their contracted hours by at least 10% following a partial retirement election and continuing to work additional sessions up to 100% as non-pensionable overtime.

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New employer contribution rate following scheme valuation

A valuation of the HSC Pension Scheme was completed on 01 November 2023 (the '2020 valuation'). This valuation is an actuarial assessment of past and future pension benefits building up within the scheme and is carried out on a 4-year cycle. The results are used to determine the employer contribution rate required to meet current and projected scheme liabilities.

Current employer contribution rate

Employers currently pay 22.5% of a member's pensionable pay towards the cost of pension rights they build up. This employer rate came into force on 1 April 2019 following the 2016 valuation, which required the employer contribution rate to increase from 16.3% to 22.5%.

New employer contribution rate from 1 April 2024

Results from the 2020 valuation show an increase in benefit costs, requiring a 0.7 percentage point rise in the employer contribution rate to 23.2%. This figure has been confirmed by the Government Actuary's Department in their final 2020 valuation report. The net increase in benefit costs is driven by a reduction in the SCAPE discount rate used to set contribution rates for unfunded public service pension schemes. The SCAPE rate is set by HM Treasury and is the notional investment return on contribution income received. (SCAPE stands for superannuation contributions adjusted for past experience.)

HM Treasury ministers announced in March 2023 an intention to implement on 1 April 2024 the new employer rates for public service pension schemes arising from this round of valuations.

Consequently, we propose amending the 2015 regulations (regulation 32) to replace the current employer contribution rate with the new rate of 23.2% effective from 1 April 2024.

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Abatement for pensions for special class members who return to work

Background

For most staff, the HSC Pension Scheme does not place any limits on the amount that staff can work should they return after claiming their benefits. However, abatement has historically applied to special class status (SCS) members who return to work between age 55 and 60 in receipt of an unreduced pension.

The normal pension age (NPA) for members of the 1995 Section is 60. However, some members are eligible to retire earlier if they hold SCS. SCS is a preserved right awarded to certain professions in the 1995 Section, which, subject to qualifying criteria being met, allows a member to retire at 55 instead of 60 without an actuarial reduction in benefits that would normally apply when claiming benefits early. It was withdrawn for new entrants from 6 March 1995 as part of the HSC Pension Scheme restructuring at that time.

In order to qualify for SCS, a member must have:

- been in pensionable employment as a nurse, physiotherapist, midwife or health visitor on or before 6 March 1995
- not had a break in pensionable employment of 5 years or more
- spent the last 5 years of their pensionable employment prior to retirement as a nurse, physiotherapist, midwife or health visitor.

SCS allows members to retire at 55 instead of 60 without the actuarial reduction to their pension that would apply to other members who claim their benefits early. Historically, under normal arrangements SCS members who return to work between age 55 and 60 are subject to abatement. This means that their pension plus salary cannot exceed their pre-retirement income, and their pension is reduced if it does.

For members with long careers, the abatement ceiling has previously prevented them from working more than half time in the week should they return to work before age 60.

The response to the COVID-19 pandemic placed unprecedented pressure on the HSC workforce. To help boost capacity on the frontline, the abatement rules were relaxed to encourage retired and partially retired staff to return to work or increase their working commitments. SCS abatement was therefore suspended via section 47 of the Coronavirus Act 2020 and was an important means of generating extra workforce capacity from partially retired staff during the pandemic response.

The department then regulated and extended this abatement through the he Health and Social Care Pensions (Abatement) Regulations (Northern Ireland) 2022 and Health and Social Care Pensions (Abatement) (No 2) Regulations (Northern Ireland) 2022. SCS abatement is currently suspended until 31 March 2025. The additional capacity provided from the suspension of abatement continued to help the delivery of the vaccine rollout and it also supports the HSC during the elective recovery period.

Proposed change

The department is committed to supporting retention measures by permanently removing SCS abatement. Our intention is therefore to amend HSC Pension Scheme regulations as part of the planned statutory regulation for 1 April 2024. This will have the effect of permanently removing SCS abatement from scheme regulations.

The removal of abatement is important in the context of the delivery of HSC services. SCS abatement is currently suspended to 31 March 2025 and permanently removing it ensures a continued capacity boost beyond that point because members can continue to work above their abatement ceiling.

It is also important to note that SCS abatement applies only to a small and reducing cohort of members who qualify for SCS. In order to be affected by the proposal to permanently remove abatement, members must qualify for SCS and be below age 60 from 1 April 2025.

Subject to the necessary approvals, the department intends to amend the 1995 HSC Pension Scheme regulations to permanently remove the SCS abatement mechanism.

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Miscellaneous and consequential amendments

A number of miscellaneous and consequential amendments are proposed as part of this consultation. They are explained in further detail in the following sections.

Abolition of the lifetime allowance

The UK government consulted on draft clauses for the Finance Bill 2023 to 2024 between 18 July and 12 September 2023 which extends to Northern Ireland. Subject to the bill becoming an act of Parliament, we propose making consequential changes to the 1995 regulations, the 2008 regulations, the 2015 regulations and the transition regulations to ensure compliance with the Finance Act.

See information on the proposed draft clauses for:

the Finance Bill 2023 to 2024

the abolition of the lifetime allowance

Changes to scheme regulations

Subject to the bill becoming an act of Parliament, we intend making consequential amendments to the 1995, 2008 and 2015 scheme regulations. These amendments will update relevant definitions or terminology and preserve existing provisions relating to the lifetime allowance to the extent that they apply prior to abolition. The intention is to ensure the smooth operation of legacy and any future lifetime allowance requirements post-abolition.

Partial retirement: maximum service

The department recently consulted on introducing a new partial retirement option for members of the 1995 Section. This flexibility would allow staff to partially retire and claim some or all of their pension, while continuing to work and accrue further pension in the 2015 Scheme. On the basis that the introduction of partial retirement goes ahead as planned, the department is now considering extending it as an option to those members of the 1995 Section who have breached the maximum service limits. Under the current proposals, these members would not be permitted to access partial retirement.

We are therefore proposing amend the previous proposals to allow maximum service members to access partial retirement from 1 April 2024.

Partial retirement: salary sacrifice

Members who take partial retirement under the new proposals would be required to reduce their pensionable pay by at least 10% for the 12 months following partial retirement. For GPs, a 10% reduction in commitment would be required. The proposals state that in order to access partial retirement, a member must have a reduction in their pensionable pay of at least 10%, as a result of a change to their terms of employment.

The partial retirement policy aims to support members' work-life balance later in their careers, and a gradual transition towards full retirement. We therefore expect members to reduce their pensionable working commitment in return for drawing down their pension while continuing to work.

Where members enter into a salary sacrifice arrangement, under the rules of the scheme their pensionable pay reduces. However, we do not believe that salary sacrifice is an appropriate way of accessing partial retirement, as it does not require any change to a member's working commitment.

We therefore propose to clarify in the forthcoming partial retirement regulations that where a member enters into a salary sacrifice arrangement, this does not constitute an eligible change to their terms of employment for the purposes of taking partial retirement.

Minor amendments

The department proposes to make small minor changes to the wording of the regulations. These minor amendments do not change the policy intent of the regulations and correct pre-existing errors that have occurred over a period that the department is now amending to ensure accuracy. The regulations alongside the proposed amendments are set out below:

Amendment of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995

Minor amendment of the wording of regulation 77.

Amendment of the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008

Minor amendments of the wording of regulation 24, regulation 156 and regulation 136ZA. Amendment to the wording of chapter 5 and chapter 7.

Amendment of the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015

Amendment of the wording of regulation 7, regulation 50, regulation 81, regulation 87, regulation 93 and regulation 112.

Amendment of the wording of Schedule 2, Schedule 3, Schedule 4, Schedule 12 and Schedule 13.

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Equality Issues

Section 75 of the Northern Ireland Act 1998 requires all public authorities in carrying out their functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity: -

· between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;

· between men and women generally;

· between persons with a disability and persons without; and

· between persons with dependents and persons without.

The Department's Equality Screening Exercise initial conclusion has determined that the proposed changes do not differentially impact on any of the Section 75 groups.

However, the Department would like to take this opportunity to ask stakeholders the following question in relation to equality:-

Are there any considerations and evidence that you think the Department should take into account when assessing any equality issues arising as a result of the proposed changes?

The equality screening analysis will be reviewed based on responses received during the consultation.

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ANNEX A

CONSULTATION RESPONSE FORM

CONSULTATION

HSC Pension Scheme – HSC Pension Scheme – proposed amendments to scheme regulations regarding member contributions phase 2 and miscellaneous amendments.

(Please complete and return to the address at the end of the form to ensure that we handle your response appropriately).

1. Name/Organisation

Organisation Name

Title

Surname

Forename

***2.* Postal Address**

Postcode	**Phone**	
Email		

***3.* Permissions - I am responding as…** (Please complete either sections (a), (b) and (d) or sections (c) and (d):

Individual **or** **Group/Organisation**

(a) Do you agree to your response being made available to the public (in the Assembly library and/or on the Assembly web

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please state yes to one of the following:

Yes, make my response, name and address all available ....

or

Yes, make my response available, but not my name and address ....

or

Yes, make my response and name available, but not my address ....

(c) The name and address of your organisation ***will be*** made available to the public (in the Assembly library Are you content for your ***response*** to be made available?

Please state yes or no: ....

(d) We may share your response internally with other Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Department of Health to contact you again in relation to this consultation exercise?

Please state yes or no: ....

ABOUT YOU

I am responding …

☐ as a scheme member

☐ on behalf of an Employer Organisation

☐ on behalf of a Trade Union/Staff Association

☐ other (please specify)

What is your gender?

Female ☐

Male ☐

Other ☐

Do not wish to say ☐

I am employed as…

☐ an administrator

☐ a dentist

☐ a doctor

☐ a general practitioner

☐ a junior doctor

☐ a manager

☐ a nurse

☐ I'm retired

☐ other (please specify)

What is your working pattern?

I work part-time ☐

I work full- time	☐
Not applicable	☐

CONSULTATION COMMENTS

Please use this space to provide any comments on the amendments.

<u>Question 1</u>

Do you agree or disagree with the principle to remove the first tier of the HSC Pension Scheme member contribution structure at a future point?

This tier provides a subsidised contribution rate to members who do not qualify for tax relief. We are seeking views on the principle to remove it at the point that HMRC begins to make top-up payments directly to eligible members to provide the benefit of tax relief directly.

- Agree ☐
- Disagree ☐
- Don’t know ☐

If you disagree or don’t know, please explain your answer.

Question 2

Do you agree or disagree that uplifting thresholds in line with CPI and automating the process is a suitable approach which complies with the principles outlined in this section?

- Agree ☐
- Disagree ☐
- Don't know ☐

If you disagree or don't know, please explain your answer.

Question 3

Do you agree or disagree with the proposal to set the contribution threshold for the next 4-year valuation period (2024 to 2028 scheme years)?

- Agree ☐
- Disagree ☐
- Don't know ☐

If you disagree or don't know, please explain your answer.

Question 4

Do you agree or disagree with the suggestion to freeze the entry point to the top tier of the member contribution structure?

This tier is occupied by members who receive the benefit of higher rate tax relief on their pension contributions. We are seeking views on the principle of removing this tier as the default lever to ensure the scheme continues to collect the 9.8% contribution yield.

- Agree ☐
- Disagree ☐
- Don’t know ☐

If you disagree or don’t know, please explain your answer.

Question 5

Do you agree or disagree that the introduction of real-time re-banding would produce a more accurate outcome for the calculation of member contribution rates?

Real-time re-banding will assign an updated pension contribution rate in the pay period where pay changes for members with pensionable pay which fluctuates between pay periods.

- Agree ☐
- Disagree ☐
- Don’t know ☐

If you disagree or don’t know, please explain your answer.

Question 6

Are you responding as or on behalf of a non- HR, Pay & Travel Portal (HRPTS) payroll provider?

Yes

No

If you said yes, do you have the capacity to implement real-time re-banding?

- Agree ☐
- Disagree ☐
- Don't know ☐

If you disagree or don't know, please explain your answer.

Question 7

Do you agree or disagree with the proposal to amend the definition of overtime? This will allow staff who work part time to pension additional income up to whole time, with limitations where members have partially retired in the previous 12 months?

- Agree ☐
- Disagree ☐
- Don't know ☐

If you disagree or don't know, please explain your answer.

Question 8

If you have any further comments on the proposed increase to the employer contribution rate from 1 April 2024, please outline them.

Question 9

Do you agree or disagree that the proposal to amend HSC Pension Scheme regulations has the intended effect of permanently removing abatement for SCS members?

- Agree ☐
- Disagree ☐
- Don’t know ☐

If you disagree or don’t know, please explain your answer.

Question 10

Do you agree or disagree with the proposal to amend HSC Pension Scheme regulations with the intended effect of removing reference to the lifetime allowance?

- Agree ☐
- Disagree ☐
- Don't know ☐

If you disagree or don't know, please explain your answer.

Question 11

Do you agree or disagree with the proposal to clarify the partial retirement regulations to expressly exclude access to this option via entering into a salary sacrifice arrangement?

- Agree ☐
- Disagree ☐
- Don't know ☐

If you disagree or don't know, please explain your answer.

Question 12

Do you agree with the proposals to make minor amendments to the to the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995, the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008 and the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015?

- Agree ☐
- Disagree ☐
- Don't know ☐

If you disagree or don't know, please explain your answer.

Question 13

Are there any considerations and evidence that you think the Department should take into account when assessing any equality issues arising as a result of the proposed changes?

Question 14

Do you have any further overall comments to make?

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