



Department
of Health &
Social Care

The National Health Service Pension Scheme (Member Contributions) (Amendment) Regulations 2023

**Report detailing the uplifts to the member contribution tier
thresholds**

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Presented to Parliament pursuant to section 22(2)(b) of the Public Service Pensions Act 2013.

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The National Health Service Pension Scheme (Member Contributions) (Amendment) Regulations 2023

Introduction

This report is laid before Parliament in accordance with s.22(2)(b) of the Public Services Pension Act 2013 ("the 2013 Act"). It relates to a proposal to make regulations under the 2013 Act.

The purpose of the regulations is to further amend the National Health Service Pension Scheme Regulations 2015 ("the 2015 Regulations").

The proposed regulations will update the pensionable earnings bands in the member contribution structure that will have retrospective effect from 1 April 2023. This gives effect to policy that was previously consulted on to update the pensionable earnings bands in member contribution structure annually. As this proposal includes a change to a protected element of the NHS Pension Scheme (as described in section 22(5)(b) of the 2013 Act), we have consulted persons or representatives of those likely to be affected by the change with a view to reaching agreement with them and now lay this report before Parliament.

The purpose of this report is to set out why the Department of Health and Social Care proposes to make these regulations, having regard to the desirability of not making a change to the protected elements of the scheme under section 1 of the 2013 Act within the protected period.

Background

In 2010, the Independent Public Service Pensions Commission was set up and chaired by Lord Hutton. His report, in 2011, made a number of recommendations on how to reform public service pensions.

The public service pension reforms legislated for under the 2013 Act are designed to last for at least 25 years. The provisions in this legislation are intended to ensure a high bar is set for those contemplating changing scheme features. There are enhanced procedural requirements for consultation and a report to Parliament when making changes to "protected elements" for a period of 25 years as the mechanism to support that aim. Member contribution rates under the respective scheme are one of the protected elements.

Section 22 of the 2013 Act sets out the procedure to be followed in the event that the responsible authority (the Secretary of State for Health and Social Care in relation to the NHS Pension Scheme), proposes to make changes that impact on elements of the scheme which are subject to enhanced protection. These elements are protected from modification until 31 March 2040 ("the protected period"), unless the prescribed procedure set out in section 22 is followed. Where a change is proposed to a protected element during the protected period, the responsible authority must:

1. consult those who appear likely to be affected, or representatives of those persons, with a view to reaching agreement; and
2. lay a report before Parliament.

Policy background

The reforms referred to above led to the making of the 2015 Regulations. When the 2015 Regulations were being developed, the Department of Health set out proposed member contribution rates to be fixed until the next valuation of the NHS Pension Scheme.

Further accrual in the final salary legacy schemes closed from 1 April 2022 and all members moved into the 2015 career average scheme for future service. This ended final salary accrual and stopped further career average accrual in the final salary legacy schemes for practitioners. Therefore, the member contribution structure was reviewed in collaboration with stakeholders and a new member contribution structure came into force on 1 October 2022. Regulations 30 and 31 of the 2015 Regulations make provision for member contribution rates for each scheme year.

As part of those the reform to the member contribution structure, it was agreed with stakeholders that the pensionable earnings bands in the member contribution structure will be increased in line with annual Agenda for Change pay awards in England. This means that salary increases due solely to centrally agreed annual pay awards are unlikely to result in members moving up a contribution tier and see a net reduction in take-home pay. Further regulations will be made in order to update pensionable earnings bands in the member contribution structure to reflect any Agenda for Change pay awards in England. This is expected to be required on an annual basis.

It was set out that in practice, the pensionable earnings bands will be increased annually in line with Agenda for Change pay awards and therefore the figures will be revised each year to reflect the Agenda for Change pay award. The revised figures for the 2023/24 Scheme Year are the subject of the proposed regulations and this report.

Policy objective

Now that the Agenda for Change pay award for 2023/24 has been announced for England, the proposed regulations revise the pensionable earnings bands from 1st April 2023 to give effect to the policy intention of annually increasing the thresholds.

There are three tables that need to be amended in the 2015 Regulations: the two tables in regulation 30 that determine the rate an officer member will pay from 1 April 2023 depending on whether their pay is based on their current pensionable earnings or their previous year's pensionable earnings; and the table that determines practitioners' contribution rates from 1 April 2023 in regulation 31.

These tables should now be:

Tier	Pensionable earnings (rounded down to the nearest pound)	Contribution rate from 1 April 2023
1	Up to £13,246	5.1%
2	£13,247 to £17,673	5.7%
3	£17,674 to £24,022	6.1%
4	£24,023 to £25,146	6.8%
5	£25,147 to £29,635	7.7%
6	£29,636 to £30,638	8.8%
7	£30,639 to £45,996	9.8%
8	£45,997 to £51,708	10%
9	£51,709 to £58,972	11.6%
10	£58,973 to £75,632	12.5%
11	£75,633 to and above	13.5%

The member contribution structure was designed to give a discounted rate of 5.1% to the very lowest earning members who are earning less than £13,247 a year. This was intended to support the affordability of the NHS Pension Scheme for members who are earning less than the threshold at the bottom of tier 2 above. These members will all work less than full-time hours and are unlikely to receive income tax relief on their pension contributions if their NHS role is their only source of income, which may reduce the

affordability of the NHS Pension Scheme for the very lowest earners. Consequently, this threshold has been frozen and not increased in line with the AfC pay award in England.

The remaining pensionable earnings bands thresholds have all been uplifted by 5% in line with the AfC pay award for England for scheme year 2023/24.

Consultation

As referred to above, in accordance with section 22(2)(a) of the 2013 Act, the Secretary of State for Health and Social Care consulted persons or representatives of such persons who appear likely to be affected by the proposed regulations with a view to reaching agreement with them. A list of these consultees is kept up to date and online at [NHS Pension Scheme: consultee list - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/nhs-pension-scheme-consultee-list)

The policy to increase the pensionable earnings bands in the member contribution structure has been the subject of extensive consultation with a view to reaching agreement with the Scheme Advisory Board (the “SAB”). The SAB is a statutory board comprising trade union and employer representatives, that advises the Secretary of State for Health and Social Care on the merits of making changes to the NHS Pension Scheme. The review considered a number of design aspects, including the range and number of tiers, whether the rate payable should be determined using whole-time equivalent or actual earnings, and providing for the pensionable earnings bands in each tier to be revalorised to avoid pay awards placing individuals in higher contribution tiers.

Throughout the discussions on the member contribution structure, there remained a consensus among the SAB that the new contribution structure should increase the pensionable earnings bands, in line with the annual Agenda for Change pay award.

In accordance with section 22(2)(a) of the 2013 Act, a public consultation was issued on 15 October 2021 and closed on 7 January 2022. 1,031 responses were received from individuals, trade unions, employers and other organisations. 67% of respondents agreed that the tier thresholds should be uplifted in line with any centrally agreed annual Agenda for Change pay awards. 22% disagreed and 11% either didn’t know or didn’t say whether they agreed or disagreed.

Consequently, it was decided that the pensionable earnings bands in the member contribution structure would uplifted annually, in line with the AfC pay award.

Following announcement of the AfC pay award on 2 May 2023, a public consultation was published which set out the proposed increases to the pensionable earnings bands in the member contribution structure.

A public consultation setting out these proposals ran from 3 to 17 May 2023. A total of 138 responses were received from individuals and stakeholders, and the Department is grateful to those who responded to the consultation.

77% of respondents to the online survey agreed with the proposals to uplift member contribution thresholds in line with the AfC pay award for England.

Impact

The proposed amending regulations mean that the pensionable earnings bands in the member contribution structure will be increased. If the regulations were not to be made, then the current pensionable earnings band thresholds in the 2015 Regulations would remain in force, which are lower than the pensionable earnings band thresholds in the proposed amending regulations. This means that some members would be paying a higher contribution rate than if the proposed amending regulations come into force. This presents a clear issue for members and a reputational risk for the Department, as public confidence in the value of the NHS pay award would be undermined.

There is no, or no significant, impact on business, charities or voluntary sector.

Conclusion

Parliament is invited to note the changes to the pensionable earnings bands in the 2015 Regulations and why the department proposes to make these regulations, having regard to the desirability of not making a change to the protected elements of the NHS Pension Scheme within the protected period. The National Health Service Pension Scheme (Member Contributions) (Amendment) Regulations 2023 will be made and laid in Parliament under the negative resolution procedure.

