

Workforce Directorate

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22 May 2009

Dear Colleague,

The National Health Service Pension Scheme, Injury Benefits and Additional Voluntary Contributions (Amendment) Regulations 2009

1. This letter is to draw your attention to further amendments in respect of the draft regulations that underpin the Pension Choice Exercise. Please note that Regulations to implement Government Policy on Retention of Employment are in the process of being laid and will be effective from 1 July 2009.

Background

2. In my letter dated 5 March 2009, I explained that we planned to consult on the draft regulations from 5 March and that consultation would end by close of play on 13 May 2009. These further amendments are made in respect of the forthcoming Pensions Choice Exercise following discussions by the Technical Advisory Group (partnership sub group of the Governance Group, which in turn reports to the Staff Council).

3. Towards the end of the consultation period, it became clear that a number of issues regarding the processes and procedures for implementing

the Pensions Choice Exercise required further examination. Resolution of these issues would, in turn, need to form the basis of further draft regulations implementing the Pension Choice Exercise. In addition, a number of very helpful technical points were raised by colleagues and these are also being taken into account in the revised Statutory Instrument (SI) (attached).

4. The more substantive amendments in the revised instrument include further regulations that cover the areas listed below. However, we have also attached a supplementary explanatory note, which explains all the changes we have made since the last version of the SI was circulated for consultation.

- Mandatory lump sums
- GP flexibility provisions
- Determining GP earnings from transferred-in officer service
- 1995 tier 1 ill health pensioners
- The position of 1995 members who are on unpaid sick leave on and after 1 October 2009

5. There remain some areas where we will need to consult further with stakeholders before we draft any appropriate amendments. These include:

- HMT role in consenting/setting actuarial assumptions for Scheme valuations, and
- Choice eligibility for TUPE transferees and Special Class members who will hit the 1995 Section (age 65) buffers during the Choice exercise.

However, we will arrange for any further draft amendments (if needed) to be circulated as soon as these become available.

6. The Pension Choice regulations will continue to come into force from **1 October 2009**.

Powers under which the amendments are made and territorial affect

7. The Secretary of State proposes to make these regulations under the powers conferred by sections 10(1) and (2), 12(1), (2) and (4) of, and Schedule 3 to, the Superannuation Act 1972. The draft regulations apply to England and Wales. The NHS Schemes in Scotland and Northern Ireland will follow their own respective legislative processes and will be preparing separate regulations.

Consultation

8. The Department will extend consultation by another month from today **Friday 22 May 2009**. Comments are required by close of business on **Friday 19 June 2009**.

9. The draft regulations may be subject to change in the light of comments flowing from this consultation exercise. Regulations to implement all the pension scheme changes are subject to final agreement by Health Ministers and HM Treasury.

10. Unless we are specifically asked to treat a response as confidential, the Department of Health may wish to publish, in due course, responses to this consultation on the Pensions Choice Exercise or deposit them in the libraries of the Houses of Parliament or the Department's library.

Response to Consultation

11. Responses to consultation should be sent by close of business on **19 June 2009** to:

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Yours sincerely

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