

NHS Pension Scheme

2022/02

Who should read: Scheme Members, NHS HR and Payroll Managers, GP Practice Managers, Direction Bodies, Practitioner Service Division (PSD), Dental Payments, Trade Unions

Action: For information

Subject: Temporary suspension of the pension scheme abatement rules for NHS staff

Date: 4 February 2022

The purpose of this circular is to advise NHS employers and staff of the continued suspension of NHS pension scheme abatement rules until 31 October 2022 for retired staff who have returned, or plan to return, to work in the NHS.

1. [**Circular 2020/06**](#) published on 15 April 2020, advised that the Coronavirus Act 2020 contained temporary measures that suspend the NHS Pension Scheme (Scotland) (NHSPS[S]) rules which place limits on the working hours and earnings of retired staff who return to NHS employment. The following rules were temporarily suspended from 25 March 2020:

I. The '16-hour rule'

- This rule prevents members who return to work after retirement from the 1995 Section of the NHS Pension Scheme from working more than 16 hours per week in the first calendar month after retirement. Where staff work more than 16 hours in the first month their pension ceases to be payable until the member leaves NHS employment or reduces to 16 hours per week.
- Suspension of this rule allows members to return immediately to work after taking a minimum 24-hour retirement and continue their existing working commitments, or increase them, whilst they remain in receipt of their full pension benefits.

II. Abatement for special class status holders in the 1995 Section

- Suspension of this rule will continue to remove a barrier which stops retired special class nurses and mental health officers under the age of 60 from returning to work without having their pension reduced or suspended based on their earnings.
- **Please note:** The abatement rules also apply to people who have retired on ill health grounds or in the interests of the efficiency of the service, along with a limited class of persons who have retired on redundancy grounds. **The abatement rules which apply to these groups are not suspended.**

III. Abatement in the 2008 Section and 2015 Scheme for members who have taken partial retirement.

- This is where a person has elected to take partial retirement and 'draw down' a portion of their benefits. In order to access partial retirement members must have a reduction in their actual pensionable pay of at least 10%. If the member's pensionable pay increases in excess of 90% of the level before draw down was taken, within 12 months of its reduction, then member's pension is abated.
- This rule is currently suspended and members who have taken partial retirement are therefore able increase their earnings or commitment to the NHS.

2. The Coronavirus Act 2020 will expire on 25 March 2022, the temporary suspensions will end and the pension rules set out above will automatically come back into force.
3. However, we recognise that suspension of these rules is currently allowing skilled and experienced staff, who have recently retired from the NHS, to return to work and is providing valuable additional capacity to NHS Scotland. This is particularly important as the NHS continues to tackle the pandemic, deliver the vaccination programme and implement the Covid recovery plan.
4. Therefore, we intend to extend the suspension all of the abatement rules which are currently suspended by the Coronavirus Act and will shortly be consulting on amending regulations which will propose to keep those suspensions in place until 31 October 2022. The regulations will be introduced on 1st April 2022 but will have retrospective effect to 25 March 2022 to ensure continuation of the suspended rules.
5. While we will continue to monitor the impact of the pandemic and progress of NHS Scotland's remobilisation and recovery, employers and staff should plan on the basis that **all the above pension scheme abatement rules will take effect again from 31 October 2022.**

Frequently Asked Questions can be found in Annex A.

Any further questions?

Please contact sppapolicy@gov.scot if you have any specific enquiries about the content of this circular

SPPA Policy

4 February 2022

Annex A**Frequently Asked Questions****Question - When will these measures take effect?**

These measures took effect from 25 March 2020 and while the provisions in the Coronavirus Act which currently suspend the rules will expire on 25 March 2022, the NHSPS(S) will be amended from that date to ensure the abatement rules remain suspended until 31 October 2022.

Question - What will happen after 31 October 2022?

We will continue to monitor progress of the NHS remobilisation and recovery from the pandemic and the continued requirement for the suspension of the abatement rules. However, employers and staff should plan on the basis that relevant sections of the scheme regulations will take effect again on 31 October 2022. We are therefore giving staff and employers notice now, in order that they have time to readjust working patterns before 31 October 2022.

Question - Do staff who are retiring imminently need to take a 24 hour break before returning to work?

Most members retiring on Age, Voluntary Early Retirement (VER) or where benefits have been deferred must take a 24 hour break in NHS employment/work to access their NHS pension in full.

The 24 hour break normally follows a member's last day of NHS employment. A member can take their 24 hour break from employment on retirement any day of the week, including the weekend or a bank holiday, regardless of their working contracted hours / regular working pattern.

To satisfy the 24 hour rule a member must terminate their contract of service (i.e. contract of employment), or contract for services if they are a self-employed Practitioner or non-GP Provider.

Some employers may require members to take more than a 24 hour break following their retirement depending upon the terms & conditions of their contract. However, NHS Pension regulations only require a 24 hour break following the member's retirement date.