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NHS Pension Scheme

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Summary

The NHS Pension Scheme is a public service pension scheme. It is a Defined Benefit (DB) scheme, which there is a promise to pay pension benefits based on salary and length of service. There are separate schemes for different parts of the UK.

The schemes have been reformed, so there are different schemes, depending on age and date of joining. In each case, the rules are in regulations made by the relevant Minister in the 'responsible authority' (the UK Parliament, the Scottish Government or the Northern Ireland Assembly) within the framework of primary legislation.

Reforms to the scheme in 2008 included the introduction of a new section (the 2008 section) for new entrants, which has a higher pension age of 65. Members of the existing 1995 section could remain in that scheme, which had a pension age of 60. New member contribution rates were introduced - tiered according to pay. Pension benefits continued to be based on final salary (although GPs and dental practitioners build up pension benefits on a "career average" basis).

Like other public service pension schemes, the scheme was reformed again under the [Public Service Pensions Act 2013](#). A new scheme introduced from April 2015 provides pension benefits based on career average revalued earnings rather than final salary. Individuals have a pension age linked to their State Pension age. Existing scheme members were moved to the 2015 scheme, except for those covered by transitional protection arrangements for those 'closest to retirement'.

The 2015 reforms were intended to control the potential for rising costs to the taxpayer due to longevity and salary. However, as an additional safeguard, they included a 'cost control mechanism', with a cap on employer contributions. This was designed to operate symmetrically, so that if valuations showed that scheme costs had risen or fallen outside of a target rate, steps would have to be taken to bring them back to target. In September 2018, the Government said that initial results of the first post-reform valuations was that costs had in fact fallen, indicating that members should get "improved pension benefits for employment over the period April 2019 to March 2023." There would be consultation on what this would mean for each scheme from April 2019 ([HC Deb 6 Sept 2018 c13WS](#)).

However, on [30 January 2019](#), the Government said it was pausing this work, pending the outcome of the Court of Appeal judgement in [McCloud v Ministry of Justice](#). This held that the 'transitional protection' offered to some members as part of the reforms amounted to unlawful discrimination. The Government accepted that the issues should be addressed across public service schemes ([HCWS 1275 15 July 2019](#)). The pause in the cost control mechanism continues on the grounds that scheme costs remain uncertain ([PO 14694, 13 February 2020](#)). Trade unions representing public servants objected to the pause, arguing that the Treasury should accept that the 2016 valuation results reflect the fact that the 2015 reforms were effective in reducing costs. For more on the 2015 reforms and legal challenge, see [Public service pensions – the 2015 reforms](#) (CBP 5768, Feb 2020).

Changes due to the Coronavirus have included a temporary suspension in the 'abatement rules' (whereby a pension can be reduced on return to NHS employment) and the introduction of coronavirus life assurance schemes.

The costs and liabilities of this and other public service pension schemes are discussed in [Public Service Pensions: facts and figures](#) (CBP 8479, December 2019).

1. Background

The NHS Pension Scheme is a public service pension scheme. It is a Defined Benefit (DB) scheme, which there is a promise to pay pension benefits based on salary and length of service. There are separate schemes for different parts of the UK:

- [NHS Pension Scheme in England and Wales](#) - administered by the [NHS Business Services Authority](#).
- [NHS Scotland Pension Scheme](#) – administered by the [Scottish Public Pensions Agency](#).
- [Health and Social Care Pension Scheme in Northern Ireland](#).

Because they have been reformed in recent years – in 2008 and 2015 - there are different schemes, depending on age and date of joining.¹ In each case, the rules are in regulations made by the relevant Minister in the ‘responsible authority’ (the UK Parliament, the Scottish Government or the Northern Ireland Assembly) within the framework of primary legislation.² However, these are set within the framework of primary legislation. The [Public Service Pensions Act 2013](#) set the main features of the new schemes to be introduced from 2015: the pension age was linked to their State Pension age and individuals build up pension rights based on their salary in each year (career average revalued earnings). All existing members were moved to the 2015 scheme, except for those covered by transitional protection arrangements for those ‘closest to retirement’ (see section 2 below). This note concentrates on the scheme in England and Wales. The schemes in other parts of the UK are very similar.³

1.1 Membership

Access to the NHS Pension Scheme was originally limited to people directly employed by an NHS body, GPs and Dental Practitioners were admitted to the scheme from its inception. The latter retained their self-employed status, albeit under contract to an NHS employer and earned pensions benefits based on the basis of “career average” earnings.

GP Practice staff

GP practice staff, including nurses, were not initially given access to the scheme. This was because they were not technically employed by the NHS but by GPs, who are self-employed. There was a long campaign by the BMA and organisations representing nurses to have practice staff included in the scheme. In December 1996, the Government announced that membership would be extended to practice staff, to support recruitment:

6.9 The final element of the strategy is to ensure that there are as few structural barriers as possible to recruitment into primary care.

¹ See [Public Service Pensions – the 2015 reforms](#) (CBP 5768, Feb 2020) and CBP 8478 [Public Service Pensions – facts and figures](#) (Dec 2019)

² [Public Service Pensions Act 2013; Public Service Pensions \(NI\) Act 2014](#), s2 and Sch 2

³ [Independent Public Service Pensions Commission: Interim Report](#), para 1.16

A major barrier which has been identified for some time is the lack of access of practice staff to the NHS Pensions Scheme. This has been a longstanding concern for practice staff and GPs. Practice staff are a vital part of primary care teams. They make a significant contribution to the NHS. Their exclusion from the NHS Pension Scheme is now clearly anomalous. The Government therefore intends to open the NHS Pension Scheme to staff employed by GPs. The new arrangements will take effect from September 1997. The detail of how the Government intends to introduce these arrangements will be discussed with the profession's representatives. The increase in GMS cash limited fund in the Budget will help to support the costs for employers of opening the NHS Pension Scheme.⁴

On 11 June 1997, the Government said that from 1 September 1997. GPs would become "employing authorities" under the regulations and the costs to GPs of the employers' contributions would be met in the same way as the other employment costs, in the Statement of Fees and Allowances.⁵ For reasons of cost staff were not offered retrospective membership. However, like other scheme members they could opt to purchase added years of membership.⁶

The Scheme in England and Wales is now open to NHS workers aged between 16 and 75 who are: directly employed by the NHS; medical, dental and ophthalmic practitioners and trainees; general medical practice staff; eligible staff of Independent Providers granted access to the Scheme; eligible staff of employers granted Direction or Determination status by the Secretary of State; non-General Practitioner Providers; freelance locum medical practitioners.⁷

Membership figures are in the scheme annual reports:⁸

	As of date:	Membership type		
		Active	Deferred	Pensioner
NHS Pension Scheme (E&W)	Mar-19	1,561,530	688,201	920,839
NHS Pension Scheme (Scotland)	Mar-19	175,757	63,739	106,142

At 31st March 2019, it had 8,486 participating employers falling into the following categories:

⁴ Department of Health and Social Security, Delivering the Future, December 1996, Cm3512

⁵ Department of Health Press Release 97/129, 'NHS Pension Scheme Open to GP Staff', 11 June 1997

⁶ Source: DoH

⁷ [NHS Pension Scheme 2015 – guide for members](#), Feb 2019

⁸ [NHS Pension Scheme Annual Accounts 2018-19](#), HC2406, July 2019; [NHS Pension Scheme \(Scotland\) Annual Report and Accounts 2018-19](#), SG 2019/159

Employer category	As at 31 March 2019
NHS Trusts and, in Wales, Local Health Boards	237
GP Practices	6,920
Arm's Length Bodies	14
Direction Bodies	563
Clinical Commissioning Groups and Support Units	224
Local Authorities (Including PHT from 1 April 2013)	154
New Fair Deal Contracts	247
Independent Provider contracts	127
Total	8,486

The scheme in Scotland is open to NHS staff, including General Medical and Dental Practitioners, employed by Scottish Health Boards and a range of smaller employers, including General Medical Practices, are eligible to join the Scheme. At 31 March 2019, the number of employers was 913.⁹

1.2 Contribution rates

Background

Member contribution rates are in regulations. In the Labour Government's reforms in 2008, contribution rates for members of the NHS Pension Scheme were tiered according to pay - between 5 and 8.5%.¹⁰

The Coalition Government's decided to increase member contribution rates by 3.2% over the three years to 2014/15. In the NHS scheme this meant an increase from an average of 6.6% in 2011/12 to 9.8% in 2014/15.¹¹ The Department of Health decided to set a higher threshold (£26,557 compared to £15,000) below which there would be no increase in contributions, paid for by higher increases higher up the pay scale.¹²

Current rates

From 2015, the average member contribution rate is 9.8%. Rates are the same in all three schemes - the 2015 scheme and the 1995, 2008 sections- as shown in the table below:¹³

⁹ [NHS Pension Scheme \(Scotland\) Annual Report and Accounts 2018-19](#), SG 2019/159, para 1.5

¹⁰ [SI 2008/653](#), chapter 2C

¹¹ DoH, [Proposed final agreement](#), March 2012, Annex A

¹² DoH, [Response to consultation](#), December 2012, para 5.5

¹³ [NHS Pension Scheme – tiered employee contribution rates from April 2015 to March 2021](#); [NHSBA – costs of being in the scheme](#); [SI 2015/94](#), part 4

NHS Pension Scheme E&W
Member contribution rates

Pay bands	2015/16 to 2021/22
Up to £15,431.99	5
£15,432.00 to £21,477.99	5.6
£21,478.00 to £26,823.99	7.1
£26,824 to £47,846	9.3
£47,846 to £70,630.99	12.5
£70,631.00 to £111,376.9	13.5
£111,377.00 and over	14.5

The above rates were initially set to apply to 2019/20. The decision to extend this to 2012/22 is [discussed below](#). Based on the most recent valuation, the employer contribution rate from April 2019 is 20.6% of pensionable pay.¹⁴

The NHS Pension Scheme (Scotland) also has tiered contribution rates, with differences in the earnings bands to which these apply. The consultations leading up to this are on the SPPA website [here](#). Details of the current rates are [here](#).

¹⁴ NHS [Pension Scheme Annual Accounts 2018-19](#), HC2406, July 2019, p4

2. Issues

2.1 Pension tax rules

An issue of debate over the last year has been the impact of pension tax rules – in particular, the ‘tapered annual allowance’ – on senior NHS’s clinicians ability to take on additional work to cover shifts. Measures to mitigate the impact of this are in the [Finance Bill 2019-20](#). The section below explains the background.

The [annual allowance \(AA\)](#) limits the amount of annual pension savings that benefit from tax relief. The standard AA is now £40,000, down from £255,000 in 2010. To mitigate the impact of reductions in the AA, the Coalition Government legislated to allow people to carry forward unused allowances from the previous three years. There is also a [tapered AA](#), introduced in April 2016, which operates to reduce the annual allowance of higher earners down to a minimum of £10,000.

These rules apply across pension schemes in the public and private sectors. However, the nature of work - with consultants taking on additional work, often at short notice, to cover service pressures – means there has been an impact across the NHS. The tapered AA had a bigger impact in 2019/20 than in previous years because – four years on from its introduction - the capacity to carry forward unused allowances from previous three years was greatly reduced.¹⁵

In August 2019, the Government said it would “review how the tapered annual allowance supports the delivery of public services, such as the NHS.”¹⁶

Budget 2020

In the Budget on 11 March 2020, the Government announced increases in the income limits used in calculating a tapered annual allowance and a decrease in the minimum tapered annual allowance.¹⁷ Provision for this is in clause 21 of the [Finance Bill 2019-21](#), published on 17 March 2020.

The [BMA](#) welcomed the announcement – which would mean that the “vast majority of doctors are now removed from the effect of the taper” – but said it was long overdue. It also continued to argue that the annual allowance was unsuited to defined benefit pension schemes such as the NHS, where a pay increase or promotion could result in doctors with incomes far below the new thresholds facing tax bills as a result of exceeding the standard annual allowance.¹⁸ Removing the AA from defined benefit schemes has also been proposed by the Office of Tax Simplification.¹⁹

For more on the background, see

Library Briefing Paper [Pension tax rules: impact on NHS consultants and GPs](#) (CBP 8626, March 2020)

¹⁵ [DHSC consultation, July 2019](#)

¹⁶ [HM Treasury press release, 9 August 2019](#)

¹⁷ [HMRC policy paper](#), 11 March 2011, para 2.183-5

¹⁸ [BMA press release](#), 11 March 2020

¹⁹ [Taxation and Life Events](#), October 2019, para 3.74-5

Plans for NHS pension scheme flexibility

The DHSC consulted in 2019 on proposals to allow senior medical staff to opt to build up pension benefits at a lower rate to reduce the risk of incurring a tax charge.²⁰ The BMA described the proposals as a ‘sticking plaster’ and the pension tax rules needed to change.²¹ In Budget 2020, the Government said they would not be taken forward.²²

In December 2019, Health Secretary, Matt Hancock, agreed for reasons of “urgent operational necessity” to allow NHS England to compensate senior clinicians incurring a pension tax charge in 2019/20.²³

2.2 COVID19

Temporary suspension of abatement rules

The Government made changes in the [Coronavirus Act 2020](#) (sections 45-7) to suspend certain rules in the NHS Pension Scheme that mean an individual in receipt of a pension returning to NHS Employment can see their pension reduced. The impact assessment explained:

104. The aim of suspending the above regulations is to remove barriers which would prevent otherwise able retired members from returning to work while continuing to receive their pension. These rules predominantly affect members of the 1995 Scheme, although a smaller number of members could be affected by draw down abatement in the 2008 Section and the 2015 Scheme. Members of the 1995 Scheme are affected by the 16-hour rule and special class holders are abated if they return to work in receipt of their benefits before age 60.²⁴

Background

In common with other public service pension schemes, there are rules in the NHS Pension Scheme that mean someone who has started to receive their pension may have it reduced (or ‘abated’) if they return to NHS employment before pension age.²⁵ The purpose is to provide a safeguard against the “potential abuse of re-employment”. It helps avoid the position where “a re-employed member could receive a higher income from public funds, taking account of pay and pension, than a colleague of the same rank, seniority and trade with whom he or she might work.”²⁶

In the NHS scheme, the rules can apply where an individual took early retirement and had their pension enhanced by the scheme or employer (for example, where the early retirement was on ill-health grounds or ‘in the interest of efficiency of the service’).²⁷ They cease to apply at

²⁰ NHS Employers, [NHS Pension Scheme consultations](#), 4 November 2019

²¹ [‘Pension flexibilities are a sticking plaster that wont stop doctors reducing their hours, says BMA’, 24 October 2019](#)

²² HM Treasury, [Budget 2020](#), para 2.184

²³ [DHSC press release, 7 December 2019; Senior clinicians’ pensions: letters between DHSC and NHS England, November 2019](#)

²⁴ [Coronavirus Bill – summary of impacts](#), 19 March 2020

²⁵ The regulations that apply the rules are in each case are cited in sections 45-7 of the [Coronavirus Act 2020](#); HC Deb, 29 April 2020, c253W

²⁶ [HC Deb, 26 April 2004, c724W](#)

²⁷ For an explanation of the different types of early retirement, see [NHS Pensions Scheme 1995/2008 – Guide for members](#), p28

pension age. Whether the pension is reduced will depend on: the level of earnings whilst re-employed; when they left the Scheme; when they claimed their pension benefits and the type of pension benefits claimed.²⁸ Changes to the rules in 2008 mitigated the impact of the policy, so that any reduction would only relate to the 'enhanced element' of the pension.²⁹

Coronavirus Act 2020

The Government passed legislation to suspend these rules in the [Coronavirus Act 2020](#) (sections 45-7). This was to allow recently retired healthcare professionals to return to work or increase their hours without there being an impact on their pension, which the Government thought might act as a disincentive to re-enter the NHS. It said:

It is important that restrictions on returning to work whilst in receipt of a pension do not act as a disincentive for healthcare professionals who wish to re-enter the workforce in order to assist the healthcare response to covid-19. The Bill will therefore suspend certain rules that apply in the NHS Pension Scheme in England and Wales so that healthcare professionals who have recently retired can return to work and those who have already returned can increase their hours without there being a negative impact on their pension entitlements.³⁰

There is guidance on the rule changes on the NHS Pensions website:

The measures predominantly affect members of the 1995 Section, although a smaller number of members could be affected by draw down abatement in the 2008 Section and the 2015 Scheme.

The measures include temporary suspension of:

- the 16-hour rule
- abatement for special class status holders in the 1995 Section
- abatement in the 2008 Section and 2015 Scheme

Temporary suspension of the 16-hour rule

This rule currently 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.

Suspension of this rule also 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 are in receipt of their full pension benefits.

Temporary suspension of abatement for special class status holders in the 1995 Section

This will remove a barrier which stops special class nurses and mental health officers aged 55 to 60 years old, who have claimed

²⁸ NHS Pensions, [Returning to the NHS after retirement](#), May 2018 and [Returning to work after ill-health retirement](#), August 2017; Scottish Public Pensions Agency, [Working after retirement](#), 2013

²⁹ [Moving to the future: the NHS Pension Scheme Review: joint proposals from NHS Employers and the NHS trade unions. August 2006](#); Library Briefing Paper CBP 3281 NHS Pension Scheme (March 2020)

³⁰ [Bill-122 EN, para 87-8](#)

their pension benefits, from returning to work without having their pension suspended

The abatement rules also apply to people who have retired on ill health grounds or in the interests of the efficiency of the service (IES), along with a limited class of persons who have retired on redundancy grounds. These measures do not suspend the abatement rules that apply to these groups

Temporary suspension of abatement in the 2008 Section and 2015 Scheme

This is where a person has elected to 'draw down' a portion of their benefits and subsequently wishes to increase their earnings or commitment to the NHS so that they are in excess of 90% of the level before draw down was taken.³¹

These rules came into effect when the [Coronavirus Act 2020](#) received Royal Assent on 25 March 2020.³²

Death in service benefits

In mid-March the BMA called for all doctors to be given access to death in service and health retirement benefits.³³ It identified a number of gaps in the existing provision. For example, locum GPs do not qualify if they work Mondays, Wednesdays and Fridays but die on a Tuesday."³⁴ Another issue is that families of doctors who die while they are active (contributing) members of the NHS Pension Scheme receive higher death in service benefits than those who are no longer paying into the scheme. It called for an emergency change to the pension scheme rules so that those "serving on the coronavirus front line are offered full death-in-service pay-outs and ill-health retirement benefits, regardless of their class of retirement plan membership."³⁵ For a summary of the death benefits available to different classes of membership, see NHS Pensions [Survivors' guide](#) (May 2018), p7.

NHS and Social Care Coronavirus Life Assurance Scheme 2020 for England

On 27 April 2020, Health Secretary, Matt Hancock announced the introduction of a new life assurance scheme for eligible frontline health and social care workers in England during the coronavirus pandemic. Their survivors would receive a £60,000 lump sum payment:

Bereaved family members will receive a £60,000 lump sum worth roughly twice the average pensionable pay for NHS staff, with the cost met by the government.

This will cover full, part-time or locum NHS and public health workers, including GPs, dentists, retired staff and second and final year students taking up paid frontline roles.

Within social care, the scheme will cover employees of publicly funded care homes, home care, directly employed carers including personal assistants and frontline child and family social workers.

³¹ [NHS Pensions: COVID19 – guidance on support for retired members](#)

³² Gov.UK, [Coronavirus Act 2020 – status table](#)

³³ [BMA proposes doctor COVID-19 safeguards](#), 18 March 2020

³⁴ [Pulse Today, 27 March 2020](#)

³⁵ [Financial Times, 26 March 2020](#); [The Guardian, 29 March 2020](#)

The scheme is aimed at those who die from coronavirus during the course of their essential and lifesaving work. This includes those providing direct care as well as cleaners and porters who continue to carry out vital duties in these care environments.³⁶

Payments would be additional to any benefits from the NHS Pension Scheme:

The scheme is non-contributory and pays a £60,000 lump sum where staff die as a result of coronavirus and have been recently working in frontline roles and locations where personal care is provided to individuals who have contracted the virus.

Payments received from this scheme will be in addition to any benefits received from the NHS Pension Scheme.³⁷

Further information, including scheme rules, is on the [NHS Business Services Authority](#) website.

Funding would be provided to devolved administrations to support similar schemes in Scotland, Wales and Northern Ireland.³⁸ Details of the scheme for Wales are not yet on the [NHSBA website](#).

NHS Scotland Coronavirus Life Assurance Scheme

The Scottish Government set up an [NHS Scotland Coronavirus Life Assurance Scheme](#). It is different to the scheme in England in that it provides survivors' pensions as well as a lump sum. And whereas payments from the scheme in England are *in addition* to payments from the NHS Pension Scheme, the aim of the Scottish scheme is to cover those who do not have equivalent life assurance cover through NHS Pension Scheme membership. A policy note explains:

1. Scottish Ministers have established a special temporary scheme that provides a lump sum and survivors benefits upon the death in service for relevant persons working for or providing services for an NHS Scotland Health Board, Special Health Board, NHS National Services Scotland (Common Services Agency) and Healthcare Improvement Scotland who do not otherwise have equivalent life assurance cover provided through an NHS Pension Scheme membership, where COVID-19 is a documented factor in their death and who have been working in clinical environments where it may reasonably be concluded that they contracted the disease in the course of performing their duties.

Rationale

2. The Scheme recognises that not all NHS employees or GP contractors and their staff are members or active members of an NHS Pension Scheme and therefore do not have access to the full death in service cover provided through the pension scheme. It also recognises that, for technical reasons some active Scheme members are not fully covered by the scheme rules. It therefore seeks to provide a comparable cover on a temporary basis, which will automatically expire when the NHS in Scotland is stood down from an emergency footing, or at the direction of Scottish Ministers, whichever is first.

³⁶ ['New guarantee on death in service benefits for frontline health and care staff during pandemic'](#), DH&SC press release, 27 April 2020; NHSBA website, [NHS and Social Care Coronavirus Life Assurance Scheme 2020](#)

³⁷ [PQ 37569, 29 April 2020](#)

³⁸ NHSBA website, [NHS and Social Care Coronavirus Life Assurance Scheme 2020](#)

3. The Scheme supports efforts to temporarily boost NHS frontline workforce, and provide the essential service capacity to fight the virus. It responds to concerns from retired health care workers who are interested in returning to the frontline, as well as those who are not members of an NHS Pension scheme, or who have deferred membership of an NHS Pension Scheme.³⁹

Levels of benefit are dependent on individual circumstances. They are aligned with benefits payable from the NHS Superannuation Scheme (Scotland)(1995 Section) and calculated on the basis of the pay that would have been deemed pensionable, had the individual been an active pension scheme member.⁴⁰

Survivors of active scheme members with more than two years' service, who are therefore entitled to a lump sum death-in-service benefit or survivors' pension from the NHS Scotland Pension Scheme, would have any payment from the coronavirus life assurance scheme reduced by that amount.⁴¹

Changes to tax rules

In a statement to Parliament on 22 April 2020, Economic Secretary John Glen announced that, for public sector workers returning to support the response to Covid-19, the Government intended to temporarily suspend certain pension tax rules which could affect some individuals aged 50 to 55 if they returned to work:

For public sector workers returning to support the government's response to Covid-19 the government intends to temporarily suspend tax rules that would otherwise apply significant tax charges to pension income received by recently retired individuals aged between 50 and 55. This change, taken alongside complementary changes to rules for relevant public service pension schemes (subject to relevant HM Treasury agreement), will help ensure individuals' pension income will remain protected if they return to work at this important time.

The measure is designed to ensure that we can continue to provide important public services at this time. As these proposed tax changes form part of our response to Covid-19, they will initially apply in respect of payments made in the period from 1 March to 1 June 2020.

HMRC will set out operational guidance in due course, but this measure will only apply to people returning to roles as a result of Covid-19. I am working with colleagues to identify relevant workforces who should benefit from these changes.

The government's actions will provide relevant public sector staff associations with the assurance that their members with pensions in payment and pension benefits will be unaffected if they wish to play their part in our response to this virus.⁴²

³⁹ Scottish Government [policy note](#), para 1

⁴⁰ *Ibid*, para 11

⁴¹ [Scheme rules](#), paras 5 to 8

⁴² [HCWS196](#), 22 April 2016

3. 2015 reforms

The Labour Government negotiated reforms to the main public service pension schemes. These had the aim of improving financial sustainability and reflecting changes in life expectancy, working practices and the private sector.⁴³ They included increases in the pension age, mostly for new entrants. In the NHS scheme, as in the schemes for civil servants and teachers, the pension age for new entrants was 65; existing scheme members were able to keep a pension age of 60.⁴⁴

Opinion was divided on whether these reforms went far enough. The TUC, for example, argued that they put the schemes on a sustainable footing.⁴⁵ Representatives of private sector employers, on the other hand, thought they had not gone far enough.⁴⁶

In June 2010 Budget, the Coalition Government announced the establishment of the Independent Public Service Pensions Commission, to be chaired by former Labour Work and Pensions Secretary of State, Lord Hutton of Furness. It would “undertake a fundamental, structural review of public service pension provision by Budget 2011.”⁴⁷

Also in Budget 2010, the Government announced a switch in the measure of prices used for pension increases – from Retail Prices Index (RPI) to Consumer Prices Index (CPI).⁴⁸ This was controversial because the CPI tends to produce lower increases. The change was unsuccessfully challenged in the courts by trade unions representing public servants.⁴⁹

The Commission’s Interim Report was published on 7 October 2010. It recommended that the most effective way of making savings in the short-term was to increase member contribution rates and that there was a case for doing so. In response, the Government announced that it would increase member contribution rates by an average of 3.2 per cent across public service schemes, except for the armed forces. The increases were phased-in over the period 2012/13 to 2014/15.⁵⁰ Lord Hutton also said longer term structural reform was needed:

It is my clear view that the figures in this report make it plain that the status quo is not tenable. I believe we need to adopt a more prudent approach to meeting the cost of public service pensions in order to strike a fairer balance not just between current taxpayers and public service employees but also between current and future generations.⁵¹

For more on the background, see

Library Briefing Paper CBP 5434 [Public service pension increases](#) (Feb 2020).

CBP 5768 [Public service pensions: the 2015 reforms](#) (Feb 2020)

⁴³ Department of Trade Industry, [Pensions Update – October 2005](#),

⁴⁴ [Independent Public Service Pensions Commission: Interim Report](#), 7 October 2010, p9

⁴⁵ TUC, [Exploding Public Sector Pensions Myths](#), July 2009

⁴⁶ For example, CBI, [Clearing the pensions fog](#), December 2008

⁴⁷ HM Treasury, [Budget 2010](#), HC 61, June 2010

⁴⁸ [Ibid, p2](#)

⁴⁹ [FDA & Ors, R \(on the application of\) v Secretary of State for Work and Pensions & Anor \[2012\] EWCA Civ 332 \(20 March 2012\)](#)

⁵⁰ HM Treasury, [Spending Review 2010](#), October 2010, para 1.94; Library Note SN 6137 [Public service pension contributions](#) (April 2012)

⁵¹ [Independent Public Service Pensions Commission: interim report, October 2011, foreword](#)

In its final report, published in March 2011, the Commission said its aim was to design a structure that would share the risks and costs of public service pensions between employees and government fairly. It said that moving to schemes providing pension benefits based on career average revalued earnings, rather than final salary, would remove much of the salary risk associated with public service pensions.⁵² However, it said the greatest risk facing public service schemes – rising longevity – should be addressed through increases in the Normal Pension Age (NPA).⁵³

3.1 Taking the reforms forward

In response to the Commission's interim report October 2010, the Government said it would implement increases in member contributions by 3.2 percentage points by 2014/15.⁵⁴ In the 2011 Budget, the Government said it accepted the recommendations of the Commission's final report as a basis for consultation and would bring forward proposals in the autumn that were "affordable, sustainable and fair to both the public sector workforce and the taxpayer."⁵⁵

On 19 July 2011, the then Chief Secretary to the Treasury, Danny Alexander said a series of meetings with the TUC had established a basis for agreement in several areas, but that differences remained on some of the key recommendations. Scheme level discussions would be established. Consultations on contribution increases for 2012/13 would be completed by October in order to ensure implementation by April 2012. There would also be consultation on contribution increases for 2014/15 and initial proposals for reformed schemes.⁵⁶

On 2 November 2011, the Chief Secretary to the Treasury announced a new offer to the unions, including a more generous accrual rate and transitional protection arrangements.⁵⁷ The offer was conditional on agreement being reached - "an agreement by the end of the year on the heads of terms on a scheme-by-scheme basis."⁵⁸

The Government set out the key features of its preferred design for the new schemes for teachers, NHS, civil service and local government. They included:

- a Career Average Revalued Earnings (CARE) pension scheme;
- Public service workers benefits to be earned at a rate of 1/60ths of pensionable earnings each year;
- Public service workers will have their benefits increased each year they are working in the public services in line with earnings revaluation;

⁵² [Independent Public Service Pensions Commission: Final Report](#), Mar 2011, para 4.25

⁵³ The earliest age at which in the course of events, a scheme member may retire with payment of his or her unreduced accrued superannuation benefits (see Glossary on page 199 of the Commission's report)

⁵⁴ [HC Deb, 24 May 2011, c589-90W](#). This is discussed in more detail in SN 5768 Public service pension reform – 2010 onwards

⁵⁵ HM Treasury, [Budget 2011](#), para 1.132

⁵⁶ [HC Deb, 19 July 2011, c91-4](#)

⁵⁷ [HC Deb, 2 November 2011, c928](#)

⁵⁸ *Ibid*, c928 and c935

- a Normal Pension Age linked to State Pension Age (or 65, whichever is higher);
- pensions in payment to increase in line with the Consumer Prices Index (CPI);
- benefits earned by leavers to increase by CPI from the date of leaving until retirement;
- average member contributions for the unfunded public service pension schemes set at the level of the existing schemes after the increase of 3.2 percentage points currently planned.⁵⁹

However, because the Government recognised that different designs might suit different workforces, it set cost ceilings (expressed as a proportion of pensionable pay) within which alternatives could be considered. For the NHS scheme, it proposed a gross cost ceiling of 21.9%, with contributions of 12.1% from employers and 9.8% from employees.⁶⁰

The trade unions welcomed the Chief Secretary's announcement but said more needed to be done. The TUC's public service liaison group (PSLG) chaired by Dave Prentis of UNISON said "unless and until further real progress is made and acceptable offers are made within those negotiations, unions remain firmly committed to continuing their preparations for the planned day of action on November 30."⁶¹ Unions whose members took part in a day of strike action on 30 November 2011 included UNISON, Unite, the Chartered Society of Physiotherapy, the Society of Radiographers and the Chartered Society of Chiropractors and Podiatrists.⁶²

The Scottish Government held separate talks on reform of the [National Health Service Superannuation Scheme \(Scotland\)](#).⁶³

Heads of agreement

On 20 December, the Chief Secretary to the Treasury confirmed that changes already announced – the switch to the CPI and the contribution increases for 2012 - would go ahead.⁶⁴ In addition, "heads of agreement" had been established with most unions in the local government, health, civil service and teachers' schemes. This meant the offer made in November had been "secured". This meant that, in the new schemes, individuals would have their normal pension age aligned with their State Pension age. There would be transitional protection for those closest to retirement:

⁵⁹ HM Treasury, [Public Service Pensions: good pensions that last](#), CM 8214, November 2011

⁶⁰ HM Treasury, [Public Service Pensions: good pensions that last](#), Cm 8214, November 2011, Table 3.A

⁶¹ [UNISON press release, 2 November 2011, Action on 30 November still on](#); See also [RCN website - Pensions: An important update](#)

⁶² [CSP website – ballot result – viewed 22 November 2011](#); Society of Radiographers; [Society of Chiropractors and Podiatrists website – viewed 22 November 2011](#)

⁶³ [Scottish Government press release, Pension reforms imposed without consultation, April 2012](#); [UNITE press release, Scottish move on public sector pensions undermines coalition's hardline stance, 26 April 2012](#)

⁶⁴ [HC Deb, 20 December 2011, c1201-03](#); [HC Deb, 20 Dec 2011, c160-1WS](#)

Those within 10 years of their normal pension age on 1 April 2012 would retain their existing entitlements, i.e: they would remain in their current existing scheme until they draw benefits or are entitled to do so. Those within 13.5 and 10 years would remain in the current scheme on a tapered basis.⁶⁵

A key change was to the proposed accrual rate:

In the health scheme, we have agreed to a revised revaluation factor of CPI plus 1.5%, which will allow the accrual rate to be improved to 1/54th. [...] All those heads of agreement are within the cost ceiling that I set out in November, but in a configuration preferred by the unions.⁶⁶

It agreed to retain the “fair deal policy”:

In the course of the talks, unions have stressed the importance of ensuring that their members will continue to be able to receive the benefits of their scheme if it is outsourced. That is the purpose of the fair deal policy, the future of which we have been consulting on. Because we have agreed to establish new schemes on a career average basis, I can tell the House that we have agreed to retain the fair deal provision and extend access for transferring staff. The new pensions will be substantially more affordable to alternative providers, and it is right that we offer workers continued access to them.

In addition, the Government will consider what practical options might be available to reform the terms of access to the NHS pension scheme, in particular for NHS staff who move to a non-NHS “any qualified provider” delivering NHS services.⁶⁷

And made a commitment to no further change for 25 years.⁶⁸

Further details for the NHS scheme were provided in a written statement:

The Secretary of State for Health (Mr Andrew Lansley): On 2 November the Chief Secretary to the Treasury made a statement to the House setting out an improved offer on public service pensions to public sector workers (Cm 8214). This offer provided a more generous cost ceiling for scheme-specific discussions to work within, and protected all those within 10 years of their pension age from any further change. This generous offer was conditional on the Government and trade unions reaching agreement by the end of the year, including in the NHS pension scheme, bringing to a conclusion talks that have lasted since February 2011.

Since 2 November I have been engaged in detailed and intensive talks with the health trade unions and employer representatives. I can now report to the House on the heads of agreement on the scheme design for the NHS pension scheme to be reached in 2015, on which talks have concluded. The Government have made it clear this sets out their final position on the main elements of scheme design, which unions have agreed to take to their Executives as the best that can be achieved through negotiations. Further work on the remaining details will take place in the new year, and Executives will consult members as appropriate. This includes a commitment to suspend any further

⁶⁵ Ibid

⁶⁶ [HC Deb, 20 December 2011, c1201-03](#)

⁶⁷ Ibid

⁶⁸ Ibid

industrial action while the final details are resolved and unions are consulting their members.

The main parameters of the new scheme are set out below:

- a. a pension scheme design based on career average ;
- b. a provisional accrual rate of $1/54$ (th) of pensionable earnings each year, subject to further agreement on outstanding issues not covered by this agreement (see annex A);
- c. revaluation of active members' benefits in line with CPI plus 1.5% per annum;
- d. a normal pension age equal to the state pension age, which applies both to active members and deferred members (new scheme service only). If a member's SPA rises, then NPA will do so too for all post 2015 service. Those within 10 years of NPA are excluded and accrued rights will also be related to existing NPA;
- e. pensions in payment to increase in line with prices index (currently CPI);
- f. benefits to increase in any period of deferment in line with prices index (currently CPI);
- g. average member contributions of 9.8%, with tiered contributions. Member contributions in year 1 to increase between 0% and 2.4% in year 1. There will be no increase in year 1 for staff with WTE pensionable pay less than £26,557. There will be further discussions on contribution rates and increases in years 2 and 3;
- h. optional lump sum commutation at a rate of £12 of lump sum for every £1 per annum of pension foregone in accordance with HMRC limits and regulations;
- i. early/late retirement factors on an actuarially neutral basis;
- j. ill-health retirement pensions to be based on the current ill-health retirement arrangements but with enhancement for higher tier awards to be at the rate of 50% of prospective service to normal pension age;
- k. spouse and partner pensions to continue to be based on an accrual rate of $1/160$ (th). For deaths in retirement spouse and partner pensions will remain based on pre-commuted pension;
- l. an employer contribution cap as detailed in the heads of agreement.

There will be transitional protection:

all accrued rights are protected and those past benefits will be linked to final salary when members leave the scheme;

all active NHS pension scheme members who as of 1 April 2012, have 10 years or less to their current pension age, including MHOs and members of the special classes will see no change in when they can retire, nor any decrease in the amount of pension they receive at their current normal pension age. This will be achieved by allowing such members to remain in their current arrangements until they retire (for 2008 members until they have taken all their 2008 pension benefits);

members who are within a further 3.5 years of their normal pension age, (i.e. up to 13.5 years from their NPA) will have limited protection with linear tapering so that for every month of age that they are beyond 10 years of their normal pension age,

they lose two months of protection. At the end of the protected period, they will be transferred into the new pension arrangements; and the costs associated with the protection outlined above sit outside the costs of the reference scheme.

On the basis that the scheme design within the heads of agreement is agreed, the Government agree to retain fair deal provision and extend access to public service pension schemes for transferring staff. This means that all staff whose employment is compulsorily transferred from the NHS under TUPE, including subsequent TUPE transfers, will still be able to retain membership of the NHS pension scheme when transferred. These arrangements will replace the current provisions for bulk transfers under fair deal, which will no longer apply. In addition, a partnership review of the implementation of the provisions set out in this paragraph for staff working in "Any Qualified Providers" (AQP) will be carried out.

The Government Actuary's Department has confirmed that this scheme design does not exceed the cost ceiling set by the Government on 2 November. Copies of the heads of agreement and GAD verification have been placed in the Library.⁶⁹

Areas for continuing discussion in 2012 included:

abatement (for service accrued prior to and post 2015)

partial retirement and re-employment including the issue of the impact on active pension scheme membership of taking 1995 Scheme benefits

lump-sum on death in service

treatment of members who leave active service but rejoin within 5 years

options for giving members greater choice over their contribution rates including paying higher contribution rates to reduce the impact of early retirement factors, subject to HMT agreement over the cash profile of scheme contributions, minimising the likelihood of scheme opt-outs and delivering the required contribution rate increases

treatment of members who transfer between Public Sector Transfer Club schemes

contribution rates and structure, including the distribution of years two and three of planned increases. (Details of the year one increases can be found here)

the implications of the pension reforms for total reward.⁷⁰

The [NHS Employers website](#) has links to information about the reforms, including the [Heads of Agreement](#). There is also information on the [Department of Health](#) website, including a [factsheet for nurses](#) and an [NHS Pensions calculator](#).

Proposed final agreement

The Proposed Final Agreement was announced on 12 March 2012:

NHS Pension Scheme (England and Wales)

⁶⁹ [HC Deb, 20 Dec 2011, c160-1WS](#)

⁷⁰ [NHS Employers' website, Agreement on NHS Pension Scheme changes, viewed 2 March 2012](#)

The Secretary of State for Health (Mr Andrew Lansley): On December 2011, I reported to the House that a heads of agreement had been reached on a new NHS Pension Scheme for England and Wales for introduction in 2015. The heads of agreement set out the Government's final position on the main elements of scheme design.

Following this, my Department has been engaged in detailed discussions with health sector trade unions and employer representatives over the remaining details for the new NHS pension scheme. I can now report to the House that these discussions have concluded and the outcome reflected in a proposed final agreement. The headline elements of the proposed final agreement remain unchanged from those set out in my previous statement to the House concerning pension reform on 20 December 2011.

The Government have made it clear that the proposed final agreement represents our final position on scheme design. The final scheme design is conditional on acceptance by trade unions of the proposed final agreement. Trade unions have agreed to take this proposed final agreement to their Executives as the outcome of negotiations. Furthermore, the proposed final agreement includes a commitment by trade unions to seek Executives' agreement to the cessation of any further industrial action on pension reform.

The core parameters of the new scheme are set out below:

- a. a pension scheme design based on a career average revalued earnings methodology;
- b. an accrual rate of 1/54th of pensionable earnings each year with no limit to pensionable service;
- c. revaluation of active members' benefits in line with the consumer price index plus 1.5% per annum;
- d. a normal pension age equal to the state pension age, which applies both to active members and deferred members (new scheme service only). If a member's state pension age rises, then their normal pension age will do so too for all post-2015 service. Those within 10 years of their current normal pension age are excluded and accrued rights will also be related to current normal pension age;
- e. pensions in payment to increase in line with inflation (currently consumer price index);
- f. benefits to increase in any period of deferment in line with inflation (currently consumer price index);
- g. member contributions on a tiered basis to produce a total yield of 9.8% of total pensionable pay in the scheme;
- h. optional lump sum commutation at a rate of £12 of lump sum for every £1 per annum of pension foregone up to the maximum limit on lump sums permitted by HM Revenue and Customs;
- i. the current flexibilities in the 2008 section will be included in the 2015 scheme—early/late retirement factors on an actuarially neutral basis, draw down of pension on partial retirement and being able to retire and return to the pension scheme;
- j. ill-health retirement pensions to be based on the current ill-health retirement arrangements but with enhancement for higher

tier awards to be at the rate of 50% of prospective service to normal pension age;

k. spouse and partner pensions to continue to be based on an accrual rate of 1/160th. For deaths in retirement, spouse and partner pensions will remain based on pre-commuted pension;

l. the current arrangements for abatement (for service accrued before and after 2015) will be retained;

m. the lump sum on death in service will remain at twice actual pensionable pay;

n. for members who in the new scheme have a normal pension age higher than 65 there will be an option in the new scheme to pay additional contributions to reduce or, in some cases, remove any early retirement reduction that would apply if they retire before their normal pension age. Only reductions that would apply in respect of years after age 65 can be bought out and the maximum reduction that can be bought out is for three years (that would apply to a member with a normal pension age of 68 or higher);

o. added years contracts in the 1995 section will continue on compulsory transfer to the 2015 scheme;

p. arrangements to purchase additional pension will continue;

q. the public sector transfer club will continue and further consideration will be given to the best way of operating it in the reformed schemes; and

r. there will be an employer contribution cap.

The Government Actuary's Department (GAD) has confirmed that this scheme design does not exceed the cost ceiling set by the Government on 2 November 2011. The [Proposed Final Agreement](#).⁷¹

Initial response of the trade unions

Unions representing health service workers have responded in different ways. The Government's proposals were rejected by the BMA, UNITE and the GMB:

- UNITE rejected the heads of agreement as a "basis for a satisfactory outcome."⁷² On 20 March it announced that its members had voted to reject the proposals. Its concerns centred on three areas – the linking of the normal pension age to the State Pension age, the increase in member contributions and the switch to the CPI.⁷³ Its members took part in industrial action on 10 May.⁷⁴
- On 22 May 2012, the GMB announced that its NHS members had voted to reject the proposals on the table on changes to the NHS

⁷¹ [HC Deb, 12 March 2012, c7-8WS](#)

⁷² [UNITE press release. UNITE unanimously rejects NHS pensions offer, 5 January 2012](#)

⁷³ [UNITE to ballot members on NHS pensions offer, 9 February 2012; Unite NHS members to stage protest after emphatic rejection of pension proposals, 20 March 2012](#). Over 94 per cent of Unite's members voted for rejection on a turn-out of 25 per cent.

⁷⁴ [Unite members to take pensions industrial action on 10 May](#), 18 April 2012

Pension Scheme. Key concerns included proposed increases in member contributions and the normal retirement age.⁷⁵

- Following a vote of its members to reject proposed changes to the NHS scheme, the BMA said it would ballot on industrial action short of a strike.⁷⁶ On 30 May it announced that the results showed “a clear mandate for industrial action on a very high turnout.” Its members took part in a day of action on 21 June. This did not involve a full withdrawal of labour.⁷⁷ The DoH has issued - [NHS Pension Scheme proposal – what it means for doctors](#) (12 June 2012). The BMA issued a point by point response.
- In February 2012, the RCN members voted to reject the Government’s proposals, although on a low turn-out.⁷⁸

Organisations such as the Royal College of Midwives and the Chartered Society of Physiotherapists announced their “reluctant” acceptance of the Government’s final offer.⁷⁹

UNISON agreed to continue to negotiations following the announcement of the Heads of Agreement in December 2011.⁸⁰ On 30 April it announced the result of a ballot of its members: a combination of a low turn-out and a close vote meant there was “no mandate to endorse the pensions proposals, but equally no mandate to take further industrial action.”⁸¹

Public Service Pensions Act 2013

The reforms were legislated for in the [Public Service Pensions Act 2013](#). Regulations for the details of the new schemes are in the:

- [NHS Pension Scheme Regulations 2015 \(SI 2015/94\)](#)
- [NHS Pension Scheme Scotland Regulations 2015 \(SSI 2015/94\)](#)

There is separate primary legislation for the public service pension schemes in Northern Ireland – the [Public Service Pensions Act \(Northern Ireland\) 2014](#). The details are in the [Health and Social Care Pension Scheme \(Northern Ireland\) Regulations \(SR 20015/12\)](#)

⁷⁵ [GMB Press Release, NHS GMB Members Vote No On Pensions, 22 May 2012](#); see also [GMB newsletter, April 2012/04](#)

⁷⁶ [BMA press release, Survey reveals doctors' strength of feeling against pension deal, 18 January 2012](#); [BMA, Doctors to be balloted on industrial action, but strike ruled out, 25 February 2012](#); [BMA response to government's "proposed final agreement", 9 March 2012](#)

⁷⁷ [BMA Briefing, June 2012; The ballot results can be seen on its website](#)

⁷⁸ ‘Results of RCN member vote on pensions’, 28 February 2012. 65,759 votes were cast, a turnout of 16.17%; 41,009 members (62.36%) voted to reject the Government’s proposals, while 24,533 members (37.30%) voted to accept the proposals; [NHS Employers, 'Industrial action roundup', 23 April 2012](#)

⁷⁹ [RCM press release, 3 May 2012, 'Government pensions offer accepted'](#); [Chartered Society of Physiotherapy press release, 1 May 2012, NHS members reluctantly accept changes to their pension scheme](#)

⁸⁰ [UNISON website – homepage \(viewed 12 January 2012\)](#)

⁸¹ [UNISON health workers to decide on final pension proposals, 9 March 2012](#); [UNISON press release, 30 April 2012, UNISON NHS pension ballot result](#). A ballot UNISON health members in England, Wales and Northern Ireland on changes to the NHS scheme returned a turnout of 14.8% of those eligible to vote. Of that, 14.8%, the result was close with 50.4% voting to reject and 49.5% to accept

3.2 Reform issues

Pension age

[Section 10](#) of the 2013 Act provided that individuals in the new schemes for the NHS (like those for teachers, civil servants and local government) would have a pension age linked to their State Pension age. This is currently rising from 65 (which it reached in November 2018) to reach 66 in October 2020. It will then rise from 66 to 67 between

The link to the State Pension age caused widespread concern among public sector unions, some of whom launched a '[68 is too late](#)' campaign.

In England, in response to concerns about the impact of having to work longer for groups such as paramedics, the Department of Health agreed to set up a [Working Longer Group \(WLG\)](#).⁸² In a report of [Preliminary findings and recommendations](#) in October 2014, the WLG noted that the impact on "NHS staff having to work longer is currently unknown" and that this deficit in knowledge would need to be addressed if the service was to "meaningfully monitor any accumulated impact of an ageing workforce." This group was disbanded at the end of March 2017. The outcomes – explained [here](#) – included bringing together information to help employers and employees to understand the implications of working to a raised retirement age.

The trade union UNISON has continued to express concern.⁸³ In December 2018, it presented a petition to Parliament calling for the pension age for ambulance staff to be reduced to 60.⁵⁶ It seems likely that this will be an important issue in the discussions on post-McCloud remedies.

Employer cost control mechanism and McCloud

The reforms recommended by the Independent Public Service Pensions Commission were designed to manage some of the costs and risks to the Exchequer of providing public service pensions. For example, basing benefits on career average earnings rather than final salary, removes from the Exchequer much of the 'salary risk' and linking the normal pension age to the State Pension age (except for the 'uniformed services, where it is 60) removes much of the longevity risk. As an added safety valve, the Commission recommended that the Government should set a: fixed cost ceiling: the proportion of pensionable pay that they will contribute, on average, to employees' pensions over the long-term. If this is exceeded then there should be a consultation process to bring costs back within the ceiling, with an automatic default change if agreement cannot be reached.⁸⁴

For more on the background, see

[Public service pensions: the cost control mechanism](#) (CBP 6971, Feb 2020)

⁸² [Summary report on the findings of the Ambulance Emergency campaign survey](#), March 2016; NHE comment, [Time to value ambulance staff](#), Feb 2017

⁸³ [The Government should lower retirement age for ambulance staff](#), says UNISON, December 2018

⁸⁴ [Independent Public Service Pensions Commission: interim report](#), October 2010, recommendation 12

The Government legislated in section 12 of the *Public Service Pensions Act 2013* for a 'cost control mechanism', which would operate symmetrically, so that if valuations showed that scheme costs had risen or fallen outside of a target rate, steps would have to be taken to bring them back to target.

In September 2018, the Government said that initial results of the first post-reform valuations, indicated that members should get "improved pension benefits for employment over the period April 2019 to March 2023." There would be consultation on what this would mean for each scheme and changes would be implemented from April 2019.⁸⁵

However, on 30 January 2019, the Government said it was pausing the operation of the cost control mechanism pending the outcome of the Court of Appeal judgement in [McCloud v Ministry of Justice](#).⁸⁶ This held that the 'transitional protection' offered to some members as part of the reforms amounted to unlawful discrimination. Having been refused leave to appeal to the Supreme Court, the Government accepted that the issues should be addressed across public service schemes:

The ruling relates to the 'transitional protection' offered to some members when the reformed schemes were introduced. In order to ensure people close to retirement age were treated fairly, the government agreed to 'transitional protection', which broadly permitted those members who were closest to retirement at the time new pension schemes were introduced to remain members of their respective old schemes. The court has found that those too far away from retirement age to qualify for 'transitional protection' have been unfairly discriminated against. As 'transitional protection' was offered to members of all the main public service pension schemes, the government believes that the difference in treatment will need to be remedied across all those schemes. This includes schemes for the NHS, civil service, local government, teachers, police, armed forces, judiciary and fire and rescue workers. Continuing to resist the full implications of the judgment in Court would only add to the uncertainty experienced by members.⁸⁷

While these discussions are underway, the cost control mechanism remains paused as the value of pension schemes to members cannot be assessed with certainty.⁸⁸

Like other public service pension schemes, the NHS scheme has considered the potential impact of the court judgment. It has been estimated at £7.2 billion, in addition to the £533.3 bn estimated liabilities in respect of benefits that have already been built up.⁸⁹

Trade unions representing public servants have objected to the pause, arguing that the Treasury should accept that the 2016 valuation results reflect the fact that the 2015 reforms were effective in reducing costs.

⁸⁵ [HC Deb 6 September 2018 c13WS](#)

⁸⁶ [HCWS1286, 30 January 2019](#)

⁸⁷ [HCWS 1275 15 July 2019](#)

⁸⁸ [PQ 14694 13 February 2020](#)

⁸⁹ [NHS Pension Scheme Resource Accounts 2018-19](#), para 3.5 and page 15

Contribution rates

As discussed above, the Coalition Government increase member contribution rates by an average of 3.2% over the period 2012/13 to 2014/15. Contribution rates are tiered according to pay, designed to protect the lower paid. The current member contribution rates in the 1995 and 2008 sections, as well as the 2015 scheme, are:⁹⁰

NHS Pension Scheme E&W

Member contribution rates

Pay bands	2015/16 to 2021/22
Up to £15,431.99	5
£15,432.00 to £21,477.99	5.6
£21,478.00 to £26,823.99	7.1
£26,824 to £47,846	9.3
£47,846 to £70,630.99	12.5
£70,631.00 to £111,376.9	13.5
£111,377.00 and over	14.5

The rates below were initially intended to apply until March 2019. However, this was extended for a further two years until 31 March 2021.⁹¹

The BMA expressed its disappointment that contribution rates for higher earners had not been reduced:

We are extremely disappointed that there has been no change to employee contribution rates which, as things stand, are to remain at the previous level with a contribution of 14.5% for the highest earners. This is despite the NHS Pension Scheme Advisory Board reaching the consensus view that the regulations require to deal with the cost floor breach highlighted in the latest scheme valuation. That consensus view included the removal of the top two tiers. A response from the Secretary of State was expected at the end of November 2018 but at the time of writing is still not forthcoming.⁹²

⁹⁰ [NHS Pension Scheme – tiered employee contribution rates from April 2015 to March 2021; NHS Business Services Authority – cost of being in the scheme](#)

⁹¹ [SI 2915/94](#), reg 30 (as amended); DHSC, [NHS Pension Scheme – proposed changes to regulations](#), Dec 2018, para 1.5

⁹² [BMA consultation response](#), 2019

4. The Labour Government's 2008 reforms

4.1 Modernisation Review - 2000-2002

In February 2000, a project was initiated to:

Prepare a set of coherent and manageable NHS Scheme modernisation proposals which would underpin recruitment, retention and mobility strategies in the NHS, be consistent with "Working Together" principles and welfare reform policies, and offer all interested parties "value for money". The proposals to pay full regard to opportunities for streamlining administration, and carry the broad support of the membership and employers.⁹³

A report published in December 2002 – on the same day as DWP's Pensions Green Paper – concluded that there was "no compelling case for major change at the moment."⁹⁴

4.2 Review of the pension age – 2002-2004

The 2002 Pensions Green Paper, [Simplicity, security and choice: Working and saving for retirement](#) asked for views on the proposal that the pension age throughout the public service should be raised from 60 to 65.⁹⁵ In its June 2003 Pensions White Paper, the Government said it would go ahead with this proposal.⁹⁶ By the end of 2006 all new staff would join on the new conditions. The pension rights existing staff had already built up would be fully protected. Reviews by the individual schemes would decide "how the higher pension age will apply to the future service of existing staff and how to ensure that transitional arrangements are fair and balanced."⁹⁷

Separately, the Government legislated to increase the minimum age (the earliest age at which an individual can draw their pension – other than on ill-health grounds) from 50 to 55 by 2010. Schemes would be free to decide how and when to move to the minimum age of 55 by 2010. People with a contractual right, in place in December 2003, to a pension between the ages of 50 and 55 would be able to keep it.⁹⁸

In April 2003, the then Health Secretary, John Hutton, announced a review of the NHS Pension Scheme, led by the NHS Confederation, which explained that the review had come about due to:

For more on the background, see

Library Briefing Paper
CBP 2209 [Public service pension age – the Labour Government's reforms](#) (December 2018)

⁹³ NHS Pensions Agency, [Pension Scheme Modernisation: A Millennium Health Check for the NHS Pension Scheme](#), December 2002, para 1.9

⁹⁴ Ibid

⁹⁵ DWP, [Simplicity, security and choice: Working and saving for retirement](#), December 2002, Cm 5677, paras 65-69

⁹⁶ DWP, [Simplicity, security and choice: Working and saving for retirement. Action on occupational pensions](#), Cm 5835, paras 32-34

⁹⁷ Ibid, para 34

⁹⁸ [Finance Act 2004](#); HM Treasury, [Simplifying the taxation of pensions: the Government's proposals](#), December 2003, para 2.8; HM Treasury, [Simplifying the taxation of pensions: increasing choice and flexibility for all](#), December 2002, p21-2

- pressure to modernise the scheme from staff and employers, which cannot easily be met without restructuring
- the Inland Revenue proposals on changes to the tax regime for pensions, which create new opportunities for making the scheme more flexible
- the Government policy of moving public sector schemes over time to a normal pension age of 65.⁹⁹

“Important assurances” were given to scheme members:

- the review will maintain the principle of a defined benefit scheme
- existing scheme members will be given the right to transfer to a new scheme
- existing scheme members’ accrued rights will be fully protected
- any change to the terms of future service are unlikely to affect anyone currently within ten years of retirement.¹⁰⁰

Moving to a 21st century pension scheme - 2005

On 10 January 2005, NHS Employers published proposals resulting from this review.¹⁰¹ Although signed by both employer and employee representatives, they had not been able to reach agreement on all points. In particular, the unions remained strongly opposed to the proposal to increase the pension age to 65 and to the Government’s view that any improvements (e.g. to survivors’ pensions) should be paid for by increased contributions or pension age.

The document proposed that in the new scheme to be introduced in 2006, the minimum pension age would rise from 50 to 55 and the normal pension age from 60 to 65. Existing members would be protected as follows:

- Minimum pension age on grounds of Voluntary Early Retirement (VER) with employer’s consent would increase from 50 to 55 by 2010. In other cases it would remain at 50
- Pension benefits earned up until 2013 would be payable in full at the age of 60. The consultation sought views on the possible extension of the protection period for NHS staff by a further three to five years (to between 2016 and 2018). However, because the protection period arrangements were an issue that spanned all public sector schemes the review recognised that any decisions would be made in the light of issues across the public sector.

It also suggested a move from a final salary to a career average scheme for all members, though this (like several other proposals in the document) was just one of a number of options put up for discussion.

⁹⁹ NHS Confederation briefing, August 2003, *Working together for a 21st century pension scheme*, August 2003

¹⁰⁰ Ibid

¹⁰¹ NHS Employers, [Moving to a 21st century pension scheme](#), June 2005

Public Service Pension Scheme Framework Agreement - October 2005

All the public service pension scheme reviews were dominated by the pension age question. By the spring of 2005, threatened public service strikes against the Government's imposition of a higher pension age persuaded the Government to promise a "fresh start" on discussions with unions on 18 March 2005. The strikes were called off and a "pensions summit" held on 31 March 2005. Following this summit, the then Secretary of State for Work and Pensions, Alan Johnson, and General Secretary of the TUC, Brendan Barber, issued a joint statement. A process of discussion and negotiation would now take place "overseen by special sessions of the Public Services Forum, with both sides committed to finding negotiated solutions."¹⁰²

An agreement was reached at a meeting on 18 October 2005 to allow existing scheme members the right to suffer no detriment in terms of their normal pension age. Pension schemes for new entrants would be negotiated through the sector specific discussions.¹⁰³

Reactions to the agreement were mixed. Unions generally welcomed the deal. The BMA said it was good news for doctors as "the government's proposal to increase their pension age to 65 was met with outright opposition and was seen as an unfair imposition." It was concerned that 65 would be the pension age for new entrants. There would "need to be strong 'safety nets' to support those who are physically and mentally unable to continue working in their full role to this age."¹⁰⁴ Some press reports described the deal as a "feeble climbdown" and the Government as having "caved in".¹⁰⁵

Joint proposals from employers and trade unions

On 1 August 2006, NHS Employers and trade unions published joint proposals, on which they had agreed.¹⁰⁶ They proposed the retention of the current scheme (with some improvements) for existing members, and the introduction of a new scheme for new entrants. Existing members would have the option of transferring to the new scheme once established. There was broad support for the proposals:

Employer responses

Almost all supported the proposed changes for both existing and new member schemes

Welcomed the increased flexibilities, ensuring that the pension continues to provide an attractive recruitment and retention tool

¹⁰² TUC press release, 31 March 2005, [Statement from Alan Johnson and Brendan Barber](#)

¹⁰³ [Public Services Forum, Final Principles](#), October 2005

¹⁰⁴ BMA press release, 18 October 2005, *Retirement age stays at 60 for current NHS doctors*

¹⁰⁵ See, for example: "Retirement age pact 'is a feeble climbdown'", *Daily Telegraph*, 19 October 2005; "Ministers cave in over public sector early retirement", *The Times*, 19 October 2005; and "Abject surrender over public sector pensions", *Financial Times*, 19 October 2005

¹⁰⁶ NHS Employers, [Moving to the future: the NHS Pension Scheme Review: joint proposals from NHS Employers and the NHS trade unions](#), August 2006

Supported the retention of a final salary scheme and the current normal pension age (NPA) of 60 for existing members, and the introduction of an NPA of 65 for new members

Welcomed proposals to cap organisations' cost at around 14%

Staff responses, including responses from the NHS trade unions

Broadly supported the proposals for both existing and new members

Welcomed the retention of final salary for both schemes and keeping the current NPA of 60, and special class status for existing members

Supported the introduction of new benefits including unmarried partner pensions and increased flexibilities

Supported the introduction of tiered contribution rates where individual contributions are directly linked to individual earnings, although the high earners expressed concerns about their higher rates

Staff and union concerns included: the cap on employer contributions; introducing an NPA of 65 for the new scheme and the value of the current added years facility compared to the new facility to buy more pension.¹⁰⁷

Final agreement – September 2007

The final agreement was announced on 21 September 2007.¹⁰⁸ It was welcomed by the then Health Minister, Ben Bradshaw.¹⁰⁹ The agreement was in line with the August 2006 proposals. An updated Scheme would be introduced from 1 April 2008 for existing members that kept most of the current benefits, alongside a new Scheme for new members. Existing members would have a one-off choice of moving to the new members' Scheme.¹¹⁰ Both schemes would be final salary schemes (except from GPs and dental practitioners). Contribution rates would be tiered according to pay. Existing members would keep the same pension age (60 for most staff, 55 for those with "special class status"). New entrants would have a pension age of 65 and more flexibility in the run-up to retirement. Key facts were:

- Two Schemes: updated NHS Pension Scheme for existing members and New NHS Pension Scheme for new members – both implemented on 1 April 2008
- Existing members keep final salary pension and Normal Pension Age (NPA) of 60, with new benefits
- New members get final salary scheme with NPA of 65 and more flexibility in the run-up to retirement
- Both Schemes have the same, new tiered contribution rates for a fairer way to fund benefits and costs

¹⁰⁷ NHS Employers website, [Consultation 2006](#)

¹⁰⁸ NHS Staff Council, [NHS Pension Scheme Review – Agreement between NHS Employers and NHS trade unions](#), September 2007

¹⁰⁹ [Joint letter from Review Chairs announcing the Final Agreement on 21 September 2007](#)

¹¹⁰ NHS Employers, [NHS Pension Scheme Review – Final agreement on changes to the NHS Pensions Scheme](#)

- One-off choice for existing members to move to the new members' Scheme
- The Scheme changes reflect employer and staff views on key benefits
- They also manage costs and risks for employers – employer contributions remain at current rate of around 14 per cent.¹¹¹

The main change between the September 2007 final agreement and the August 2006 proposals for reform was an increase in the band of earnings at which the lowest contribution rate (5%) applied (from £15,107 up to £19,165).¹¹²

The changes were introduced by the [National Health Service Pensions \(Amendment\) Regulations 2008 \(SI 2008/654\)](#) and [NHS Pensions Regulations 2008 \(SI 2008/653\)](#). The Government Actuary's Department produced a factsheet, comparing the pre April 2008 rules with the Schemes for new and existing members from 1 April 2008 - [National Health Service pension scheme \(NHSPS\) Key features pre/post 1 April 2008](#). NHS Employers produced a briefing, [Changes to the NHS Pension Scheme](#) (September 2007) and [FAQs](#).¹¹³

Comment and analysis

The BMA said it had negotiated a fair deal for its members:

Certainly the proposals are an improvement on the Government's original position; which was that by 2013 the NHSPS would move to a normal pension age of 65 and a reduced value Career Average Revalued Earnings (CARE) method of accrual for all members.¹¹⁴

The Royal College of Nursing (RCN) welcomed the final agreement:

We are delighted to say that, four years on, current nurses will keep their normal pension age of 60 and both existing and new nurses will have a pension based on a final salary. The RCN and other trade unions representing healthcare workers set out to reach a sustainable long-term agreement with NHS Employers that would provide security in retirement for NHS nurses, hope for future NHS nurses and value for money. This agreement does all three."¹¹⁵

As did the GMB union.¹¹⁶

The then Shadow Treasury Minister, Philip Hammond said "the deal reinforced the growing "apartheid" between public and private sector

¹¹¹ NHS Employers Briefing, [Changes to the NHS Pension Scheme](#), September 2007

¹¹² Ibid and NHS Employers, *Moving to the future: the NHS Pension Scheme Review*, (August 2006) page 5. The 5% contribution rate now applies up to pay point 16, compared to pay point 9.

¹¹³ See also NHSBSA, *"NHS pension scheme changes: rules and benefits comparison"*, (September 2007), which included a table summarising the changes.

¹¹⁴ BMA, [Final agreement on changes to the NHS Pension Scheme](#), September 2007

¹¹⁵ RCN Press release, "RCN welcomes new NHS pension scheme arrangements", 21 September 2007

¹¹⁶ GMB Press Release, "Many GMB members will pay less of new pension arrangements", 21 September 2007

pensions. "It does nothing to reduce the massive burden taxpayers will ultimately have to bear," he said.¹¹⁷

Choice exercise

As part of the final agreement, existing members have the choice to move to the new scheme.¹¹⁸ The terms on which this could be done were announced in January 2009. The general proposal was that "all members aged under 60 should be offered transfer terms of one year in the 2008 scheme for one year in the 1995 scheme."¹¹⁹ The "NHS Pensions Choice exercise" was set up to run until July 2012.¹²⁰

Information for scheme members can be found on the "[Your NHS Pensions Choice](#)" section of the NHS Pensions website.¹²¹ A news item, in response to Lord Hutton's final report on public service pension reform, said:

We still want to give all members an opportunity to switch to the 2008 Section. If you have already made your NHS pensions choice, your choice will apply to the benefits you build up until the date any new arrangements are introduced.¹²²

Impact of the 2008 reforms

The Pensions Policy Institute (PPI) published an assessment of the Government's public sector pension reforms in October 2008.¹²³ It found that the reforms to the NHS and Teachers' schemes had reduced the average "effective employee benefit rate"¹²⁴ from 22% to 19% of salary." It said:

If the NHS scheme were not reformed, a 40 year-old male new entrant would have had an effective employee benefit rate of 22% of salary. Under the reforms, assuming he joins the new scheme that came into operation on 1 April 2008, his effective employee benefit rate reduces to 19% of salary. The components of this reduction can be broken down as follows (Chart 4):

- The increase in normal pension age from 60 to 65 means that pensions will come into payment later and will be in payment for a shorter period of time. This reduces his effective employee benefit rate by 4% of salary.
- The NHS scheme has improved its accrual rate from 80ths to 60ths and has abolished the additional 3/80ths lump sum for new entrants. This offsets around half of the impact of raising the normal pension age, increasing his effective employee benefit rate by 2% of salary.
- Tiered contributions have been introduced for the NHS scheme, so that member contribution rates now depend on

¹¹⁷ Financial Times, *NHS will keep final salary pension schemes*, 23 September 2007

¹¹⁸ NHS Staff Council, [NHS Pension Scheme Review – Agreement between NHS Employers and NHS trade unions](#), September 2007

¹¹⁹ NHS Staff Council, [Addendum to the NHS Pension Scheme Review agreement between NHS Employers and the NHS trade unions](#), January 2009

¹²⁰ NHS Employers, [Pensions Choice. Career and retirement options for the NHS](#), November 2009; [NHS Employers website- Pensions choice exercise](#)

¹²¹ NHS Pensions, [Your NHS Pension Choice](#), May 2009

¹²² [NHSBSA website. news 1 April 2011](#)

¹²³ Pensions Policy Institute, [An assessment of the Government's reforms to public sector pensions](#), October 2008, page 14

¹²⁴ PPI explains that "the effective employee benefit rate measures the value of the scheme to an "average" member" (page 13).

level of salary. If the man has an average salary for the NHS scheme, this will reduce his effective employee benefit rate by 0.5% of salary as his member contribution will increase.

- The NHS scheme, in common with other public sector schemes, has also increased the amount of tax-free lump sum that members can choose to receive through giving up some of their pension income. Since the rate at which pension is exchanged for lump sum is less than actuarially fair, this could reduce his effective employer benefit rate by 0.5% of salary.
- Overall, the combined net effect of the reforms is to reduce his effective employee benefit rate by 3% of salary, from 22% before the reforms to 19% after.¹²⁵

The National Audit Office (NAO) looked at changes introduced the Teachers', NHS and civil service schemes in 2007-08. The main changes aimed at reducing and better managing taxpayer costs were:

Employee contribution rates were increased for NHS staff and teachers;

The **normal pension age** rose from 60 to 65 for most new staff;

A '**cost sharing and capping**' mechanism [...] was introduced to spread future cost increases between employers and employees.¹²⁶

The NAO said:

We estimate that the 2007-08 changes will reduce costs to taxpayers in 2059-60 by 14 per cent compared to what they would have been without the changes. In net present value terms, using the Treasury's discount rate of 3.5 per cent above increases in RPI, aggregate savings over all years in the period to 2059-60 are equivalent to £67 billion in 2008-09 prices. Savings peak at 0.2 per cent of Gross Domestic Product (GDP) in 2047-48, lying between 0.1 and 0.2 per cent of GDP from 2025-26 onwards (Figure 1 overleaf). The peak occurs because of a temporary reduction in numbers of retirements as the changes start to delay the age at which employees retire. Beyond 2059-60, annual savings will initially remain at 14 per cent, rising slowly from 2065-66. As a consequence of the changes, overall costs to taxpayers will stabilise at around 1.0 per cent of GDP, close to their current levels.¹²⁷

Its conclusion on value for money was that:

14 By making changes in 2007-08 to pension schemes for civil servants, NHS staff and teachers, the Treasury and departments overseeing the schemes acted to tackle potential future growth in costs to taxpayers. As a result of the changes, which are on course to deliver substantial savings, long-term costs are projected to stabilise around their current levels as a proportion of GDP. The changes are also set to manage one of the most significant risks to those costs, by transferring from taxpayers to employees

¹²⁵ Ibid, page 16-17

¹²⁶ NAO also produced a helpful note summarising the [changes to the other main public service PAYG schemes](#)

¹²⁷ [NAO, The impact of the 2007-08 changes to public sector pensions, HC 662, 8 December 2010, para 5](#)

additional costs arising if pensioners live longer than is currently projected.¹²⁸

4.3 Review of ill-health benefits

In general, if a person draws an occupational pension before the scheme's normal pension age, it will be "actuarially reduced" to reflect the fact that it is likely to be in payment for longer. However, most schemes allow early payment of a full pension where retirement is on ill health grounds.

In 2005, the NHS Employers and Staff Side began a joint review of Ill Health Retirement benefits, the NHS Injury Benefit Scheme and the management of sickness absence across the NHS. Achieving financial sustainability was a "key concern for the review partners."¹²⁹ Review was needed, in part, because of the introduction of a normal retirement age of 65 for new members:

3.4 Underpinning the review was the need to ensure the continuation of the provision of appropriate ill health retirement benefits whilst supporting staff to remain in work wherever possible. Historically there has been a dramatic fall in the number of ill health retirements since reaching a peak in the 1990s. However, with the rising to age 65 in the "new" Scheme, the total cost of ill health retirements is expected to increase. Therefore, the aim is to mitigate the risk of rising costs to the NHS Pensions Scheme posed by premature and unnecessary ill health retirements and the move to a higher normal pension age (NPA) of 65.¹³⁰

A consultation document published in October 2007 explained the existing provisions in broad terms:

A member who retires from pensionable employment because of physical or mental infirmity that makes him permanently incapable of efficiently discharging the duties of that employment shall be entitled to a pension if he has at least two years' qualifying service.¹³¹

An ill health pension could be "enhanced" to compensate for the loss of further opportunity for pension accrual. In the case of a member returning to NHS employment under the age of 60, their pension could be "abated" (reduced) if earnings were above a certain level.¹³²

4.22 The amount of extra membership an individual applicant receives will depend on how long they have been a member of the Scheme and their age at retirement. There are different arrangements in place for deferred members. A Scheme member must also have at least five years' membership when they have to retire, with their membership being increased to improve the benefits they receive. Members over the age of 60 can retire on the grounds of ill health with enhancement if they do not have 20 years' of service.

¹²⁸ [Ibid](#)

¹²⁹ NHS Staff Council, [Partnership review of ill health retirement, NHS injury benefit scheme and sickness absence. Joint proposals for consultation](#), Oct 2007, para 3.10

¹³⁰ [Ibid](#)

¹³¹ [Ibid](#), para 4.19

¹³² See also HC Deb, 29 April 2008, c253W, which explains that abatement is a common feature of public service pension schemes.

4.23 The principle is that the enhancement should help to compensate for loss of further opportunity for pension accrual, which has been prematurely curtailed through ill health. This is why the Scheme's regulations insist on the measure of permanence, i.e. permanently incapable of efficiently discharging the duties of that employment. Once awarded, an ill health pension cannot be withdrawn*, although members returning to NHS employment under age 60 are deferred members subject to the Scheme's rules on abatement.**

* The Scheme's 1980 regulations impose certain restrictions and allowed for the review of ill health pensions for those under age 60 and withdraw payment where the person had become capable of resuming employment. This provision was revoked in 1987 on the grounds that the provision was inoperable.

**The method of restricting the amount of pension NHS pensioners can secure if they return to NHS employment.

The provisions did not differentiate between those employees who were unlikely to ever work again and those who had a reasonable prospect of finding alternative work.¹³³

Following consultation, it was agreed that there would be two tiers of ill health retirement benefits, dependant on the severity of a person's condition and the likelihood of them being able to work again:

In tier 1 the individual is assessed as being unable to do their own job, as with the current arrangements. Staff are entitled to benefits where the NHS Pension Scheme administrators are satisfied that the member is suffering from mental or physical infirmity that makes them permanently incapable of doing the duties of that job. As this tier assumes they will still be able to carry out another job, they will be awarded a lower level of benefits.

In tier 2 the individual is assessed as being permanently unable to carry out regular employment. This will include being unable to take on any substantial employment that is similar to their job as a Scheme member, either full or part time. They could not reasonably be expected to do work across a general field of employment, bearing in mind their physical and mental capacity, and their training and experience to date. This aims to give a greater level of benefit to those who are permanently incapable of working again. It also recognises the need for some flexibility to allow for possibility of therapeutic or voluntary employment within certain limits.¹³⁴

There would be some scope to move between the tiers. Those in tier one would receive accrued service only, with no actuarial reduction. Those in tier two would receive an enhancement of 2/3 prospective service (with some transitional protection). The minimum qualifying service of five years for ill health retirement enhancement would be removed.¹³⁵

¹³³ NHS Staff Council, [*Partnership review of ill health retirement, NHS injury benefit scheme and sickness absence. Joint proposals for consultation*](#), October 2007

¹³⁴ NHS Employers, [*Briefing 42. Ill health retirement and sickness absence management: new arrangements for the NHS*](#), March 2008

¹³⁵ NHS Staff Council, [*Partnership review of ill health retirement, injury benefit and sickness absence in the NHS. Final agreement*](#), March 2008, page 5-9

In future, abatement would only apply to part of the pension above that which would have been paid had the pension been actuarially reduced:

The review partners have agreed that earnings from NHS employment after ill health retirement (up to NPA) will lead to abatement of pension. The amount of pension that can be abated is restricted to the proportion of pension above that which is payable following actuarial reduction.¹³⁶

When the 2015 scheme was introduced, it was agreed that ill-health pensions be based on the current ill-health retirement arrangements but with enhancement for higher tier awards to be at the rate of 50% of prospective service to normal pension age.¹³⁷

The rules are in [SI 2008/653](#) (ch 2D) and [SI 2015/94](#) (ch 5).

There is an overview in NHSBA leaflet [NHS Pensions: Ill health retirement key notes](#) (2018).

¹³⁶ *Ibid*, p8

¹³⁷ [HC Deb, 12 March 2012, c7-8WS](#)

5. 1995 reforms

Changes to the NHS Pension Scheme in 1995 introduced more choice and flexibility with benefit improvements financed by withdrawing special early retirement rights for new entrants. The included:¹³⁸

- Death-in-service lump sum increased to twice annual salary, with no deductions for pre-1972 service
- Death benefit for preserved pensioners to be three times pension (the better of the two options available under the previous rules)
- A "death deficiency payment" to spouse (or dependants), made following death after retirement, guarantees five years' pension payment, subject to an overriding maximum payment of twice annual salary at retirement less retirement lump sum
- Introduction for all members of voluntary early retirement from age 50, with actuarially reduced benefits
- Voluntary early retirement from age 50 with no actuarial reduction, but no enhancement of benefits, at local discretion and cost. (Not for medical and dental practitioners).
- Option to commute pension to a tax free lump sum if a member is terminally ill. The lump sum will be five times the ill health pension with an overriding cap of twice final year's pensionable pay less the retirement lump sum. The normal lump sum (usually three times pensionable pay) is also payable
- The introduction of formal retirement arrangements so that a member of 60 or over is able to decide on the date of retirement: 'retirement' (i.e. receipt of pension benefits) to require a significant break in employment before any return to work.
- Membership of the scheme ceases on retirement and there is no abatement of benefits on re-employment from age 60
- Abolition of modification of benefits in respect of state retirement pension for all scheme members
- Early retirement arrangements ('special class' status) - which allowed female nurses, physiotherapists, health visitors and midwives to retire at age 55 and had been extended men from 17 May 1990 - withdrawn from all new entrants
- The early retirement arrangements for mental health officers (MHOs) were withdrawn for new entrants, but those already holding the status were allowed to retain it (provided they did not have a break in service of more than five years). These special arrangements allowed MHOs to retire at 55 and for each year's service beyond 20 to count double for pension purposes.

The changes were included when the scheme's provisions were consolidated in the [National Health Service Pension Scheme Regulations 1995 \(SI 1995/300\)](#).

¹³⁸ BMA Fact Sheet, *Changes to the NHS Pension Scheme*, April 1995

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