

Health, Social Care and Sport Committee

16th Meeting, 2022 (Session 6), Tuesday 3 May 2022

Subordinate legislation

Note by the clerk

Purpose

1. This paper invites the Committee to consider the following unrelated negative instruments:
 - [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2022](#)
 - [The National Health Service \(General Medical Services Contracts and Primary Medical Services Section 17C Agreements\) \(Scotland\) Amendment Regulations 2022](#)

Procedure for negative instruments

2. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).
3. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
4. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
5. If the Parliament resolves to annul an SSI then what has been done under authority of the instrument remains valid but it can have no further legal effect. Following a resolution to annul an SSI the Scottish Ministers (or other responsible authority) must revoke the SSI (make another SSI which removes the original SSI from the statute book.) Ministers are not prevented from making another

instrument in the same terms and seeking to persuade the Parliament that the second instrument should not be annulled.

6. Each negative instrument appears on the Health, Social Care and Sport Committee's agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not *always* possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.
7. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

Guidance on subordinate legislation

8. Further guidance on subordinate legislation is available on the Delegated Powers and Law Reform Committee's web page at:
<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/delegated-powers-committee.aspx>

Recommendation

9. The Committee is invited to consider any issues which it wishes to raise in relation to these instruments.

Clerks to the Committee

28 April 2022

SSI 2022/117

Title of Instrument: The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2022

Type of Instrument: Negative

Laid Date: 25 March 2022

Meeting Date: 3 May 2022

Minister to attend meeting: No

Motion for annulment lodged: No

Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee? Yes.

Reporting deadline: 16 May 2022

Purpose

10. This instrument makes changes to the employee contribution table from 1 April 2022 which updates the salary/earnings bands on which the employee contribution percentages are set. The instrument also makes temporary modifications to the NHS Pension Scheme (Scotland) Regulations which have similar effect to section 46 of the Coronavirus Act 2020. Following the expiry of the Coronavirus Act 2020 this instrument will temporarily extend those provisions until 31 October 2022. Section 46 of the Act suspends certain rules that apply in the NHS Pension Schemes in Scotland so that NHS staff 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.
11. A copy of the Scottish Government's Policy Note is included in **Annexe A**.
12. Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. This instrument breaches the 28 day rule. Reasons for this breach are detailed in a letter to the Presiding Officer, attached at **Annexe B**.
13. The Delegated Powers and Law Reform Committee considered this at their meeting on the [26 April 2022](#), and agreed to draw this instrument to the attention of the Parliament on the following grounds:
 - *The Committee draws this instrument to the Parliament under the general reporting ground for a failure to follow proper drafting practice as provision should have been made for regulations 2 to 5 to have retrospective effect rather than coming into force prior to the instrument being made.*

- *The Committee also draws this instrument to the attention of the Parliament under reporting ground (j) for failure to comply with laying requirements in accordance with the laying requirements in section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010.*
14. A copy of the full extract from the [Delegated Powers and Law Reform Committee report](#) can be found in **Annexe C**. A copy of all correspondence between the Delegated Powers and Law Reform Committee and the Scottish Government can be found in **Annexe D**.

SSI 2022/130

Title of Instrument: The National Health Service (General Medical Services Contracts and Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2022

Type of Instrument: Negative

Laid Date: 9 April 2022

Meeting Date: 3 May 2022

Minister to attend meeting: No

Motion for annulment lodged: No

Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee? No.

15. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [26 April 2022](#) and made no recommendations in relation to this instrument.

Reporting deadline: 23 May 2022

Purpose

16. The purpose of this instrument is to require NHS Boards to provide various services to support GP practices and require GP practices to have a practice website and offer certain online services to patients.

17. A copy of the Scottish Government's Policy Note is included in **Annexe E**. The following associated documents are also available online:

- [Child Rights and Wellbeing Impact Assessment](#)
- [Data Protection Impact Assessment](#)
- [Fairer Scotland Duty Impact Assessment](#)
- [Island Community Impact Assessment](#)
- [Equality Impact Assessment](#)
- [Final Impact Assessment](#)

POLICY NOTE**THE NATIONAL HEALTH SERVICE SUPERANNUATION AND PENSION SCHEMES (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2022****SSI 2022/117**

The above instrument was made in exercise of the powers conferred by section 10 and 12, and Schedule 3 to the Superannuation Act 1972, and by section 1(1) and (2) (e) and paragraph 5(b) of schedule 2 of the Public Service Pensions Act 2013 (“the Act”). The instrument is subject to negative procedure.

This instrument makes changes to the employee contribution table from 1 April 2022 which updates the salary/earnings bands on which the employee contribution percentages are set. The instrument also makes temporary modifications to the NHS Pension Scheme (Scotland) Regulations which have similar effect to section 46 of the Coronavirus Act 2020. Following the expiry of the Coronavirus Act 2020 this instrument will temporarily extend those provisions until 31 October 2022. Section 46 of the Act suspends certain rules that apply in the NHS Pension Schemes in Scotland so that NHS staff 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.

Policy Objectives

The purpose of this instrument is to update and amend The National Health Service Superannuation Scheme (Scotland) Regulations 2011, The National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013 and The National Health Service Pension Scheme (Scotland) Regulations 2015.

One of the aims of this instrument is to make changes to the salary/earnings bands of the employee contribution tables from 1 April 2022. This will ensure that the tiering of pay bands remains in line with annual increases in members’ pay. It was agreed during scheme reform discussions, with both scheme employer and scheme member representatives, that although member contribution rates would not change, the pay/earnings bands in each tier would increase each year in line with national NHS pay awards in Scotland.

The second aim of the instrument is to make temporary modifications to the Scheme Regulations which have similar effect to section 46 of the Coronavirus Act 2020. Section 46 of the Coronavirus Act, which came into force on 25 March 2020, provides for the suspension of the NHS Pension Scheme restrictions relating to retired staff returning to work. Section 46 will cease to have effect from 25 March 2022 when the Coronavirus Act 2020 expires.

This instrument will continue the temporary amendments to the NHS Pension Schemes (Scotland), made via section 46 of the Coronavirus Act, for a further period until 31 October 2022. The extension of the provisions will allow retired and partially retired NHS staff to return to work or increase their working commitments without there being a negative impact on their pension entitlements. To assist the continued health service response to COVID-19 and the NHS Scotland recovery plan, it is desirable to ensure that those rules do not act as a disincentive for NHS staff who wish to re-enter the workforce.

Consultation

To comply with the requirements of section 10(4) of the Superannuation Act 1972 a formal policy consultation took place from 3 March 2022 to 17 March 2022. In particular, representatives of NHS employers and employees, other Scottish Government interests and UK Government departments were consulted. Five responses to the consultation were received.

Impact Assessments

An equality impact statement in respect of the NHS Pension Scheme (Scotland) reforms (including contribution rates) was prepared and is available at <http://www.gov.scot/Publications/2015/03/2855>

Financial Effects

The increase in pay bands on which contributions for members are based is beneficial to members. There is an agreed policy that members should not be moved into a higher contribution tier because of the national NHS pay award.

Business and Regulatory Impact Assessment

No Business and Regulatory Impact Assessment is necessary as the instrument has no financial effects on local government or business.

Scottish Public Pensions Agency

An Agency of the Scottish Government
25 March 2022

Annexe B

Dear Presiding Officer

The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2022

The above named SSI was made by the Scottish Ministers under sections 10 and 12 of the Superannuation Act 1972, and schedule 2, and schedule 3, of the Public Service Pensions Act 2013. This instrument is being laid before the Scottish Parliament today, 25 March 2022 and comes into force on 1 April 2022, with the exception of regulations 2 to 5 which come into force immediately after the expiry of section 46 of the Coronavirus Act 2020.

Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, this has not been complied with and to meet the requirements of section 31(3) that Act, this letter explains why.

This instrument amends the provisions of the National Health Service Pension Scheme (Scotland) Regulations 2015 (“the 2015 Regulations”) relating to employee contributions to the NHS Pension Scheme (Scotland) and inserts new tables reflecting revised employee contribution rates from 1 April 2022. The tiered contribution rates are revised annually to reflect annual NHS pay awards. This is in line with policy established in 2015 and ensures individual scheme members are not being moved into a higher contribution rate banding as a result of the pay award and end up with a reduction in their take-home pay.

Further, this instrument makes temporary modifications to the National Health Service Superannuation Scheme (Scotland) Regulations 2011, the National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013 and the 2015 Regulations. The modifications have similar effect to section 46 of the Coronavirus Act 2020 (“the 2020 Act”) following the expiry of that section, until 31 October 2022.

Section 46 of the 2020 Act suspends certain rules that apply in the NHS Pension Scheme in Scotland so that NHS staff 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. To assist the health service response to COVID-19, it is desirable to ensure that those rules do not act as a disincentive for NHS staff who wish to re-enter the workforce.

As public service pensions policy is executively devolved to the Scottish Government, this instrument, which amends member contribution rates in the NHS Pension Scheme (Scotland) Regulations, requires the consent of HM Treasury. With the agreement of HM Treasury, the Scottish Government had been consulting on amending regulations which sought to reform the member contribution structure from 1 April 2022, the consultation closed on 27 February 2022. However, because of the impact these reforms were set to have on lower and middle earning NHS staff in the current economic climate, HM Treasury directed in a letter from the Chief

Secretary to the Treasury of 18 February 2022, that these reforms should be delayed until 1 October 2022.

Accordingly, the Scottish Government are delaying reform of the contribution structure until October 2022 and have withdrawn the original SSI which was previously consulted on. However, the existing powers to deduct member pension contributions expire in regulation on 31 March 2022, therefore, we need to bring forward and consult on amending Regulations, in short time, in order to extend the current contribution structure from 1 April 2022. The late direction from HM Treasury on the delayed implementation meant that we had to withdraw the original instrument and new instrument could not be made and laid sooner.

Consequently, I must regrettably inform you that this instrument will breach the 28 day rule. Yours sincerely

Iain Coltman
Interim Head of Policy

Annexe C

Extract from the Delegated Powers and Law Reform Committee report on 26 April 2022**National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2022 (SSI 2022/117)**

13. The instrument makes temporary modifications, until 31 October 2022, to existing regulations to ensure 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. It also amends existing pensions regulations to insert new tables reflecting revised employee contribution rates from 1 April 2022.

14. In correspondence with the Scottish Government, the Committee highlighted that regulation 1(3) provides that regulations 2 to 5 come into force immediately after the expiry of section 46 of the Coronavirus Act 2020. Section 46 expired at the end of 24 March 2022, which is before this instrument was made at 10.13 am the following day.

15. In its response, the Scottish Government explained that it was intended that regulations 2 to 5 have retrospective effect, but it was regrettable that this provision could be read instead as coming into force at the relevant date. In line with proper drafting practice, the instrument should have been made and then come into force, with separate provision made regarding retrospective effect.

16. The Committee draws this instrument to the Parliament under the general reporting ground for a failure to follow proper drafting practice as provision should have been made for regulations 2 to 5 to have retrospective effect rather than coming into force prior to the instrument being made.

16. The instrument also fails to comply with section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 which requires that instruments subject to the negative procedure are laid at least 28 days before they come into force, not counting recess periods of more than 4 days.

17. The instrument was laid on 25 March 2022 and came into force on 1 April 2022, except for regulations 2 to 5 as noted above.

18. In correspondence with the Presiding Officer, and subsequently with the Committee, the Scottish Government explained it had consulted on regulations reforming the member contribution structure, which were due to come into force on 1 April 2022, highlighting that HM Treasury had been involved in the consultation process on this instrument. However, during the

consultation process, HM Treasury changed its position and on 18 February 2022 advised the Scottish Government that certain reforms which had been proposed should be delayed until 1 October 2022 because of the impact they were set to have on lower and middle earning NHS staff in the current economic climate. Alternative provision was required to extend the current member contribution rates in lieu of the member contribution reform postponed by HM Treasury.

19. A copy of all correspondence can be found in the Annex.

20. The Committee also draws this instrument to the attention of the Parliament under reporting ground (j) for failure to comply with laying requirements in accordance with the laying requirements in section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010.

Correspondence between the Delegated Powers and Law Reform Committee and the Scottish Government

National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2022 (SSI 2022/117)

On 6 April 2022 the Scottish Government was asked:

Regulation 1(3) of this instrument provides that regulations 2 to 5 come into force immediately after the expiry of section 46 of the Coronavirus Act 2020. Section 89(1) of the 2020 Act provides that section 46 expires at the end of the period of 2 years beginning with the day on which it is passed. The expiry date of section 46 was not amended by the Coronavirus Act 2020 (Alteration of Expiry Date) (Scotland) Regulations 2022 (SSI 2022/ 40).

21. Please explain whether you consider that section 46 of the 2020 Act expired at the end of 24 March 2022.
22. This instrument was made at 10:13AM on 25 March 2022. Both the Superannuation Act 1972 and the Public Service Pension Act 2013 contain provision enabling pension scheme regulations to have retrospective effect (see e.g. section 12(1) of the 1972 Act and section 3(3)(b) of the 2013 Act). If section 46 expired at the end of 24 March 2022, please explain whether, and if so why, the Scottish Government considers that regulation 1(2) and (3) of the instrument (under the heading “Citation and commencement”) competently, and in line with proper drafting practice, have the effect of bringing regulations 2 to 5 into force approximately 10 hours before the instrument was made, as opposed to commencing the instrument after it is made and providing separately that regulations 2 to 5 have retrospective effect prior to the instrument being made – see, for example, regulation 1(2) and (3) of the National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/30).
23. The preamble to this instrument narrates that it is made with the consent of the Treasury as required by section 10(1) of the 1972 Act and section 3(5) of the 2013 Act. The letter to the Presiding Officer dated 25 March 2022 explains that the Scottish Government had been consulting on amending regulations which sought to reform the member contribution structure from 1 April 2022 and that consultation closed on 27 February 2022. However, a letter from HM Treasury to the Chief Secretary to the Treasury of 18 February 2022 indicated that these reforms should be delayed until 1 October 2022. Please explain why consent from HM Treasury was not sought earlier to allow time for the Scottish Government to respond to any suggested changes and still afford Parliament the full 28 days to consider this instrument as provided for in section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010.

24. Given the explanation in the accompanying letter to the Presiding Officer that

HM Treasury directed that the reforms should be delayed until 1 October 2022, please confirm whether, and if so why, regulation 2 achieves the policy intention insofar as it provides that the modifications in Part 2 apply until the end of 31 October 2022, and whether HM Treasury consents to this.

25. In regulation 7(a) no reference is made to the paragraph in regulation 30 of the National Health Service Pension Scheme (Scotland) Regulations 2015 that the instrument amends. Please confirm whether there is an error, and whether reference should have been made to paragraph (3) in addition to sub-paragraph (g).

26. Please confirm whether any corrective action is proposed, and if so, what action and when.

On 14 April 2022 the Scottish Government responded:

1. It is considered that section 46 of the 2020 Act expired at the end of 24 March 2022.
2. As noted, section 12(1) of the Superannuation Act 1972 provides that regulations making provision for the superannuation of persons engaged in health services may be framed so as to have effect as from a date earlier than the making of the regulations, and section 3(3)(b) of the Public Service Pensions Act 2013 provides that such regulations may make retrospective provision. The intention was for the provision in regulations 2 to 5 of this instrument, which temporarily modifies certain provisions in NHS pension scheme regulations to apply until 31 October 2022, to have retrospective effect in so far as the time of making of this instrument was after the expiry of section 46 of the Coronavirus Act 2020. It is regretted that the drafting of regulation 1(3) of this instrument may be read as providing that regulations 2 to 5 come into force, rather than take effect, at the relevant time.
3. As the letter to the Presiding Officer sets out, the consultation on the amending Regulations which closed on 27 February 2022 was carried out with the consent of HM Treasury. However, HMT then changed their position in a letter from the Chief Secretary to the Treasury of 18 February 2022 which expressed the view that the member contribution reforms which had been proposed should be delayed until 1 October 2022. Consent was then given to this instrument by HMT on 21 March 2022.
4. The view expressed by HMT that member contribution reforms should be delayed until 1 October 2022 relates to the provision made by regulations 6 to 8 of this instrument, which set out member contribution rates. The effect of regulations 7 and 8, as made, is to extend the current member contribution rates, and provide powers to continue to deduct member contributions, in lieu of the member contribution reform postponed by HMT. Regulations 7 and 8 extend those rates from 1 April 2022 and allows the inserted contribution table to apply until the reforms are agreed by HMT and stakeholders.

5. In regulation 7(a), reference should have been made to paragraph (3) of regulation 30, rather than to sub-paragraph (g) only. This omission is regretted but it is considered that the meaning of this provision is clear, on the basis that neither paragraph (1) or (2) of regulation 30 include a sub-paragraph (g). It is noted that in the current version of SSI 2015/94 on Westlaw, new sub-paragraph (h) has been inserted at the appropriate place, after sub-paragraph 30(3)(g).
6. No corrective action is proposed.

POLICY NOTE**THE NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES CONTRACTS AND PRIMARY MEDICAL SERVICES SECTION 17C AGREEMENTS) (SCOTLAND) AMENDMENT REGULATIONS 2022****SSI 2022/130**

The above instrument was made in exercise of the powers conferred by sections 17E, 17N, and 105(7) of the National Health Service (Scotland) Act 1978 and all other powers enabling them to do so. The instrument is subject to negative procedure.

Purpose of the instrument. To require Health Boards to provide various services to support GP practices and require GP practices to have a practice website and offer certain online services to patients. 20. Subject to parliamentary procedure the instrument comes into force on 28 May 2022.

Policy Objectives

In 2017, as part of the commitment to reduce GP workload, the Scottish Government and SGPC agreed Health Boards would set up pharmacotherapy and Community Treatment & Care (“CTAC”) services to support GP practices, allow GPs to focus on what they do best and to improve care for patients.

The pharmacotherapy and CTAC services formed part of the Primary Care Improvement Plans in each area.

The aim of the programme is to reduce workload for GPs and their staff. This will mean that other parts of the system, with primary care multi-disciplinary teams, will deliver these services instead of GPs. This will be a step towards enabling GPs to focus their time on expert medical generalism, whilst ensuring that patients’ needs are met through the reconfiguration of services which will make the best use of the mix of skills in primary care. While delivery of this programme will vary regionally, depending on local circumstances and factors, Scottish Ministers will issue directions setting out clear national specifications.

Pharmacotherapy covers managing acute and repeat prescriptions, medicines reconciliation, and the use of serial prescribing which should be delivered principally by pharmacy technicians, pharmacy support workers, managerial, and administrative staff and a focus on high-risk medicines and high risk patients, working with patients and using regular medication and polypharmacy reviews to ensure effective person-centred care are delivered principally by pharmacists.

CTAC services include, but are not limited to, phlebotomy, basic disease data collection and biometrics (such as blood pressure), chronic disease monitoring, the

management of minor injuries and dressings, suture removal, ear syringing and some types of minor surgery as locally determined as being appropriate.

Policy Objectives – Practice Websites and Online Services

Practices are currently required to provide online appointment booking and access to repeat prescriptions if they have capacity to do so (online booking is currently suspended across most practices because the existing systems do not have capacity to steer patients with possible COVID symptoms to the correct pathways). In practice this capacity is understood as meaning the practice has a website. While most practices offer these services, around 40 practices do not have a website and do not offer these services.

National Services Scotland has developed a standard website which will be offered to all contractors and providers to enable them to meet this new requirement so the Scottish Government can now look to make offering these services obligatory. The 2022 Amendment Regulations amend the GP contract to require all contractors and providers to have a practice website, and as a consequence of this, to offer online appointment booking and online repeat prescriptions.

Consultation

The 2018 Scottish general medical services contract (which the 2018 Contract Regulations and 2018 Agreement Regulations underpin by setting out required contractual terms) was developed collaboratively through negotiation between the Scottish Government and Scottish General Practice Committee of the British Medical Association (the “SGPC”), as the parties authorised to negotiate the general medical services contract and primary medical services agreement in Scotland.

The SGPC as the representative Union, led consultation with the profession on the 2018 general medical services contract. This included holding roadshows in every Health Board area during 2015, which helped to inform the Primary Care Vision and the expert medical generalist role. Updates on the development of the contract negotiations were published in *General Practice: Contract and Context. Principles of the Scottish Approach*¹ on 3 November 2016. This was updated by a further publication on 11 May 2017.²

Negotiations were informed by engagement with healthcare professionals, Health Boards, Integration Authorities and the public, including seeking public views through the Scottish Health and Care Experience Survey, Healthier Scotland National Conversation and Our Voice Citizens’ Panels. This engagement helped to ensure that robust, evidence based improvements could be made to the general medical services contract, including refocusing the GP role as the expert medical generalist in the community, supported by an expanding multidisciplinary team, improving access for patients, and helping to mitigate health inequalities.

¹ <http://www.gov.scot/Publications/2016/11/7258/downloads#res-1>

² <http://www.gov.scot/Publications/2017/05/2382>

The contract offer document which informed the changes contained within the 2018 Contract Regulations and 2018 Agreement Regulations was published jointly by the Scottish Government and SGPC on 13 November 2017³. This publication was followed by a series of stakeholder engagement events held across Scotland in every Health Board area to discuss the proposals with clinicians, Health Boards and Integration Authority officials. SGPC held a poll of the profession between 7 December 2017 and 4 January 2018 to seek their views on the new contract offer. On 18 January 2018 SGPC formally decided to proceed to implement the 2018 general medical services contract.

Following acceptance of the contract offer by the profession, Scottish Government, SGPC, Health Boards and Integration Authorities agreed a Memorandum of Understanding outlining the principles of service transfer. An Oversight Group was set up to monitor progress.

In 2020 Scottish Government and SGPC recognised the uneven progress towards implementation and wrote a joint letter to the GP profession setting out our priorities for the next year. The joint letter contained a commitment to amend the GMS and PMS regulations (“the regulations”) so that Health Boards are responsible for providing pharmacotherapy and CTAC services by for 2022-23.

Engagement with the profession, the public, NHS Boards and Integration Authorities will continue throughout the implementation of the new contract subject to parliamentary approval.

Impact Assessments

A Data Protection Impact Assessment was completed and is attached. It has found that the new 2022 Amendment Regulations are compliant with the principles of the Data Protection Act 2018.

A Child Rights Wellbeing Impact Assessment was completed and is attached. It has found that this will have a positive contribution to the wellbeing of children and young people in Scotland.

A Fairer Scotland Duty Impact assessment was completed and is attached. The assessment showed that there have been significant considerations to improve the policy implementation throughout its development.

An Equality Impact Assessment, encompassing health equalities, and child rights and welfare has been completed on the policy and is attached. It has found that as the 2022 Amendment Regulations are intended to apply equally to all those affected by its provisions: the policy will not have a detrimental effect on people with protected characteristics or people within other assessed populations, such as those living in rural areas or areas of deprivation, on the basis of that characteristic.

³ <http://www.gov.scot/Resource/0052/00527530.pdf>

In terms of SEA and the Scottish Government's statutory obligations under the Environmental Assessment (Scotland) Act 2005 ("the 2005 Act"), it is considered that the 2018 Contract Regulations and wider policy are likely to have no or minimal effects on the environment and can be exempted under Section 7 of the 2005 Act. A pre-screening notification was therefore submitted to the Consultation Authorities (SNH, SEPA and Historic Environment Scotland), and added to the SEA Database. As the 2022 Amendment Regulations implement that wider policy, no further assessment has been required.

Financial Effects

A Business and Regulatory Impact Assessment has been completed and is attached. The impact of the 2022 Amendment Regulations on business is beneficial.

Scottish Government
Primary Care Directorate

April 2022