



SCOTTISH PUBLIC PENSIONS AGENCY

NHS Superannuation Scheme (Scotland)

Circular No. 5/2004

NHS and other participating employers
NHS Trades Unions and Staff Associations
General Practices

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Dear Sir or Madam

NHS Superannuation Scheme (Scotland)
GMS Contract – Pensions Provision.
Section 17C Agreements
Section 2C Arrangements

1. The purpose of this circular is to provide members who are general medical practitioners (“GPs”) and their employers with important information about changes to the National Health Service Superannuation Scheme (Scotland) (“the NHS Scheme”).

1.1 The changes will implement the agreement reached in the new contract for the provision of general medical services (“GMS”) and take account of the establishment of substantive agreements under section 17C of the National Health Service (Scotland) Act 1978 (“section 17C agreements”), which replace ‘Personal Medical Services’ pilot and permanent schemes. The changes will also take account of direct provision arrangements under section 2C of the National Health Service (Scotland) Act 1978 (“section 2C arrangements”).

1.2 In particular, this circular covers-

- The new, broader definition of pensionable earnings for GPs;
- The new method of calculating the pensions dynamising factor;
- Non practitioner partners;
- Out of hours providers participation in the NHS Scheme;
- Contribution collection arrangements;
- Section 17C agreements; and
- Section 2C arrangements.

1.3 **It is important to note** that the details of some of the changes outlined in this circular are still subject to further discussion and agreement between NHS employers and staff representatives. In addition, amending Regulations have to be approved by both the Scottish

Ministers and the Scottish Parliament. Therefore, the contents of this circular should be viewed as an advance notice of changes, not a definitive guide to those changes.

2. Pensionable earnings

2.1 A new, broader definition of pensionable earnings will apply to all medical GMS, section 17C agreement and section 2C arrangement practitioners who are held on a performers list maintained by a Health Board. The new definition will not apply to GP locums.

2.2 The new definition, which will replace the existing one for all NHS earnings after 1st April 2004, will be based on an assessment of actual pensionable earnings, after the deduction of expenses, at an individual practice level. For the purposes of the definition, pensionable earnings will include –

- Delivery of NHS services by a GMS, section 17C agreement or section 2C arrangement practitioner;
- Provision of NHS services by a GMS, section 17C agreement practitioner, sub-contracted directly from a GMS or section 17C agreement provider;
- NHS board or advisory work carried out by a principal or assistant practitioner on behalf of an NHS employing authority, and which is paid for by that authority;
- NHS work by a GMS, section 17C agreement or section 2C arrangement practitioner under collaborative agreements with local authorities, paid for by an NHS employing authority;
- Practice based training of medical students, undergraduates, vocational and postgraduate training, funded through national educational and training budgets or otherwise;
- GMS or section 17C agreement practitioner certification;
- NHS services provided by an approved out of hours provider; and
- Payments under such schemes as NHS quality, golden hello, GP retainer, and seniority payments or equivalent arrangements through section 17C agreements or section 2C arrangements

The expenses element of the definition of pensionable earnings will include-

- The cost of staff and materials; and
- Sub-contracted work.

2.3 An accountancy study is currently underway, the purpose of which is to refine the definition of pensionable earnings, including clarification of gross NHS earnings and the items to be recorded as expenses. As soon as this exercise is completed, guidance will be issued. In the meantime, GPs and NHS employing authorities are urged to keep a record of all NHS income and expenditure.

3. Pensions Dynamisation

3.1 The method of calculating the pensions dynamising factor for GPs in GMS, section 17C agreements and section 2C arrangements has been reviewed, largely as a result of the re-defining of pensionable earnings.

3.2 For the year 2003-2004, the factor will be based on an assessment of expected GP NHS earnings and expenses.

3.3 From April 2004, the factor will be based on the movement in actual GP NHS earnings from one year to the next.

3.4 The data on which the factor is based is not normally available until after April each year. Therefore for each year from April 2004, an interim factor will be applied, followed by a final confirmed factor when the relevant data is available and has been analysed.

3.5 Any pension benefits which have been assessed using an interim factor will be re-assessed when the final factor becomes available, with any arrears paid.

4. Non practitioner partners.

4.1 It is expected that non-practitioner partners in GMS and section 17C agreement practices will be eligible to join the NHS Scheme with effect from the 1st April 2004. For the purposes of the NHS Scheme, and the NHS Injury Benefit Scheme (Scotland), the employing authority will be the relevant Health Board.

4.2 Non-practitioner partners will be regarded as whole time officers, and will accrue officer service in the scheme. Pensionable pay will be based on the non-practitioner partners share of the practice profits, and the pensionable pay figure must be agreed by the relevant Health Board.

4.3 Non-practitioner partners will have access to the NHS Injury Benefit Scheme (Scotland), but not to redundancy benefits under the NHS Compensation for Premature Retirement Scheme (Scotland).

5. Out of Hours (“OOH”) providers

5.1 OOH providers - other than NHS Boards, GMS practices or section 17C agreements - who meet the criteria outlined in paragraph 5.3, will be able to apply for approval as an employing authority for the purposes of the NHS Scheme.

5.2 Employees of an approved OOH provider, and GPs (but no other self employed staff) will be able to join the Scheme in respect of all the NHS work they carry out for the OOH provider.

5.3 It is not intended that commercial OOH providers and their subsidiary companies can join the scheme. Therefore there will be two types of eligible OOH providers-

- A company limited by guarantee where the majority of the members are either GMS contractors or section 17C agreement providers who are required to provide out of hours services, or GPs who are partners or shareholders of such a contractor or provider (and all the remaining members are other GMS contractors or section 17C agreement providers or GPs who are partners or shareholders in such contracts or agreements). The company must have a contract to provide primary medical services in the out of hours period for GMS contractors or section 17C

agreement providers or a Health Board. The company's business of providing out of hours primary medical services must be operated wholly or mainly in a way which is of a 'mutual trading' character.

- A corporate body whose members include at least one GMS contractor or section 17C agreement provider or a GP who is a partner or shareholder of such a contractor or provider. The body must be operated for the benefit of the general public or the recipients of its primary medical services on a "not for profit" basis that forbids the payment of dividends and requires any profits to be re-invested in the business with any assets to be transferred to a charity or similar body on its winding up. It must have a contract with a Health Board or, until the 1st January 2005, a GMS contract or section 17C agreement, to provide out of hours primary medical services.

5.4 OOH providers who want to join the NHS Scheme will be able to apply for approval from the date that the amending regulations come into force. Applications should be made to the Health Board with whom the OOH provider holds the contract or contracts or, where there is no contract, to the Health Board in whose area they provide the services. Supporting evidence will be required.

5.5 If the OOH providers apply for approval before a certain date – which will be notified in due course – they will be eligible for backdated membership of the NHS Scheme to 1st April 2004. If they apply after that date, membership will be from the date of the application. It is important to note that the eligibility criterion for OOH providers is not a one off test. The OOH provider must continue to meet the criteria to enable continued participation in the NHS Scheme.

5.6 When a Health Board confirms the eligibility of an OOH provider, they will send details to SPPA, who will issue an employers pack to the OOH provider.

5.7 Should an application for approval be rejected by a Health Board, the OOH provider can apply to have the decision reviewed.

5.8 Details of the application and review process will be issued when the relevant amending regulations come into force.

5.9 Non GP staff employed by an approved OOH provider will become members of the NHS Scheme automatically. The employee may choose to opt out, and this can be done by completing form SB 34.

5.10 Membership of the NHS Scheme will be on the same basis as practice staff. They will accrue officer benefits in the scheme.

5.11 The OOHs provider will be responsible for deducting employee contributions, and remitting them, along with the employer's contributions, to the SPPA. They will also be responsible for providing SPPA with the necessary information to keep member records up to date. Guidance on this will be issued to approved OOH providers.

5.12 As with non GP staff, approved OOH provider GPs will be given automatic scheme membership unless they choose to opt out by completing the form SB34

5.13 GPs who perform NHS work for an approved OOH provider under a fee based contract or a formal contract of employment, will be able to pension their earnings. The Health Board who holds the GP on their performers list will be regarded as the employing authority for the purposes of the NHS Scheme, and they will accrue practitioner benefits in the scheme.

5.14 If the GP is working for the OOH provider on behalf of a GMS practice or section 17C arrangement, the OOH provider should pay the practice gross, for inclusion in the certificate of pensionable earnings which is sent to Practitioner Services Division. The earnings will be pensionable after the deduction of expenses, and subject to the normal scheme contributions.

5.15 If the GP performs work for an OOH provider on an individual basis, rather than on behalf of a practice, the OOH provider should deduct employers and employees contributions. These should be forwarded to the Practitioner Services Division.

6. Pension contributions and collection arrangements

6.1 Contributions to the NHS Scheme for GPs are currently-

- Employee's – 6% of NHS pensionable earnings, net of expenses.
- Employer's – 14% of NHS pensionable earnings, net of expenses.

6.2 GP contractor/provider – status in the NHS Scheme

6.3 In both new GMS and section 17C agreements, GP contractors/providers on a Health Board performers list will be regarded as principal practitioners and the Health Board will continue to be the employing authority for the purposes of the NHS Scheme and the NHS Injury Benefit Scheme (Scotland).

6.4 In new GMS and section 17C agreements, all NHS work performed by GPs from 1st April 2004 on behalf of their GMS or section 17C agreement practice, will be pensionable in the NHS Scheme by means of interim employee and employer deductions from their monthly payments of practice global sum. Health Boards will assume that all earnings for basic, enhanced and any additional NHS services they perform are to be regarded as practice earnings for the purposes of the NHS Scheme, and allocate them to the relevant GPs in accordance with any partnership agreement. This will apply to all NHS services and earnings included from the outset in the overall contract value for GMS contracts or agreement value for section 17C agreements, and to any additional earnings from NHS work the practice receives during the year.

6.5 Agreeing the deduction of NHS Scheme contributions

6.6 In new GMS, it will no longer be possible to establish the exact amount of pensionable earnings for any given year until practice accounts for that year are closed. This means it will be necessary for GMS practices, in broadly the same way as in section 17C agreements, to take all reasonable steps at the start of the year to agree with the relevant Health Board an estimate of the expected NHS pensionable earnings for the year. The Health Board should base their provisional NHS Scheme employee and employer contributions on the agreed pensionable earnings figure.

6.7 The estimate should take into account the total NHS pensionable earnings, net of expenses, expected for the year, in respect of all of the GP contractors/providers and salaried GPs working in the practice, any partnership shares and any additional years or money purchase AVC contributions they may be making.

6.8 For practices in which the number of GPs and pattern of work is expected to remain broadly similar as 2003/2004, the average monthly level of NHS Scheme contributions during that year should be a useful guide.

6.9 It is important to remember that the agreed figure is only an estimate. It may be revised at any time during the course of the year in the event of changes in the practice or significant additional payments during the year. In every case, NHS Scheme contributions will be subject to final confirmation and payment of arrears or refunds when practice accounts for the year are closed and the practice certificate of pensionable earnings is completed.

6.10 Payment of contributions

6.11 The relevant Health Board must pay the agreed superannuation contributions to the Practitioner Services Division no later than the 19th day of the month following the month of deduction. Money purchase AVC contributions must be paid to the chosen provider within 7 days of deduction.

6.12 At the end of every financial year and the closure of practice accounts, each practice, including section 17C agreements, will need to complete a certificate of pensionable earnings, detailing gross practice income and expenditure and the amount attributable to NHS work. The certificate should show the total for the practice as a whole and the amounts for each individual GP, and any non-practitioner partners/providers share. The certificate should show the total of all the practices pensionable NHS work, including additional work performed for other practices or NHS employing authorities during the year and the gross payments received. Payments for additional NHS work must be supported by receipts from the employing authority who paid for the work. The certificate will also need to record other pensionable NHS payments, for example seniority payments, that are paid to individual practitioners rather than the practice as a whole.

6.13 Each practice should forward their completed certificate to Practitioner Services Division as soon as possible after accounts closure. They will then be checked to establish any under or over payment in relation to the provisional contributions. In the case of money purchase AVCs, the GP concerned may prefer to treat any overpayment as a further investment, subject to any overall contribution limits, or have it offset against future payments. Where the GP has retired mid year, any overpayment may be treated as a further investment as long as it relates to the period that they were a member of the NHS Scheme, and they have not yet purchased an annuity.

6.14 The agreed format for the annual certificate, and any adjustment for practices that close accounts at a date other than 31 March each year, will be confirmed when the accountancy study, as referred to in paragraph 2.3, is completed and discussions between NHS employers and staff representatives have taken place.

6.15 Salaried GPs – status in the NHS Scheme

6.16 Salaried GPs on a Health Board performers list, including-

- GMS and section 17C agreement assistant GPs;
- GPs on the GP retainer scheme; and
- GPs employed under section 2C arrangements,

will continue to be regarded as assistant practitioners for the purposes of the NHS Scheme and the relevant Health Board will be regarded as the employing authority for the purposes of both the NHS Scheme and NHS Injury Benefit Scheme (Scotland). Practices must not complete pension records for, or record contributions in respect of salaried GPs.

6.17 Confirming pensionable earnings for salaried GPs

6.18 When a practice employs a salaried GP for the first time, they will need to inform the relevant Health Board of their agreed pensionable earnings, net of expenses, as soon as possible, and thereafter in April each year. The Health Board and practice should then take account of the relevant NHS Scheme contributions in their total monthly deduction from the practice global sum or through the agreement value for a section 17C agreement.

6.19 Any significant change in the practices monthly NHS Scheme contribution deduction from the global sum or through the agreement value for a section 17C agreement, due to changes in a salaried GPs pay, should be adjusted in year and finalised with other adjustments when the practice accounts for the year are closed.

6.20 Salaried GPs' contributions in relation to locum work and work as an individual for an OOH provider or another employing authority, must not be collected via the practice global sum.

6.21 GP registrars

6.22 GP registrars will continue to accrue officer service in the scheme. The relevant Health Board will be regarded as the employer for the purposes of the NHS Scheme and the Injury Benefit Scheme (Scotland). Contribution arrangements will be slightly different under the new GMS contract.

6.23 The practice should collect the registrar's employee contributions, including any added years or money purchase AVCs and forward them to Practitioner Services Division, who should then forward them to SPPA along with the employer's contributions. The practice should seek re-imburement of the full approved cost of the GP registrar – including the employee contribution element - from the relevant Health Board.

6.24 GP retainer scheme

6.25 The GP retainer scheme will continue in new GMS practices and section 17C agreements practices. Contributions should be arranged as outlined in paragraph 6.23 above. It should be noted that GPs on the GP retainer scheme are qualified, not trainees, therefore will accrue practitioner benefits.

6.26 Locum work

6.27 Locum work – irregular contract for services arrangements deputising for an absent GP or providing temporary GP assistance for an employing authority – will be pensionable in new GMS and section 17C agreements in broadly the same way as before. Locum work for an approved OOH provider will be pensionable from 1st April 2004.

6.28 Practice staff

6.29 Practices will continue to be employing authorities for the GP practice staff they employ – including any non practitioner doctors – for all pension record keeping and contributions.

6.30 GPs carrying out NHS work outside a practice contract and global sum or section 17C agreement value – including Board and advisory work

6.31 GPs who perform regular NHS work for an employing authority on an individual basis as opposed to on behalf of a practice, can pension the payments made. However, to ensure the GP's records are properly completed, the relevant employing authority should deduct pension contributions from their payment net of expenses. These contributions should then be forwarded to the Practitioner Services Division.

6.32 GP performers in section 17C agreements and section 2C arrangements

6.33 All salaried GPs in section 17C agreements and section 2C arrangements will accrue NHS Scheme membership from the 1st April 2004 on an assistant practitioner basis. The relevant Health Board will be the employer for the purposes of the NHS Scheme and the NHS Injury Benefit Scheme (Scotland).

6.34 Any GPs in former Personal Medical Services schemes, who have previously been regarded as an officer for pension purposes, should request that the relevant Health Board send form NSR02, which will terminate their current contract - for the purposes of superannuation – as at 31st March 2004. The relevant Health Board should then send an NSR01 starter form, with a commencement date - under a 17C agreement or a section 2C arrangement- of 1st April 2004.

6.35 If any GPs formerly employed under a PMS scheme are unsure under which regime – officer or practitioner – their benefits have been accruing, they should contact SPPA, NHS Team 3 on 01896-893131 for confirmation.

7. Questions about this circular

7.1 If you have any questions about the content this circular, please contact me on 01896-893231.

7.2 Additional copies of the circular can be obtained from the SPPA website at, www.scotland.gov.uk/sppa or alternatively, from Paula Thomson by calling 01896-893228.

A handwritten signature in black ink, appearing to read 'John Provan', with a small flourish at the end.

John Provan
Policy Manager
Scottish Public Pensions Agency
4th June 2004