

NHS Superannuation Scheme (Scotland)

Circular No. 6/2005

NHS and other participating employers
Practitioner Services Division
GP Practices
NHS Trade Unions and Staff Associations

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Dear Sir or Madam

NHS Superannuation Scheme (Scotland) – New GMS Contract / Pension Provision

Introduction

Interim Circular No. 6/2005 updates Circular No. 5 /2004, which provided members who are general medical practitioners (GP's), and their employers with important information about changes to the National Health Service Superannuation Scheme (Scotland) following the introduction of the new general medical services (GMS) contract.

The changes will apply from 1 April 2004. The changes will implement agreements reached by professional and NHS employer representatives in the new practice based GMS contract, and affect pension, benefits and procedures. The 'Personal Medical Services' Pilot and permanent scheme has been replaced by agreement under 17C of the National Health Service (Scotland) Act 1978.

In particular, this circular covers-

1. Principal and Assistant Practitioners Pensionable Pay
2. Medical Dynamising Factors
3. Non GP Partners
4. Admission of Out of Hours Providers as NHS Pension Scheme Employing Authorities
5. Superannuation Contributions

The arrangements covering the End of Year Certificate and the reporting of pensionable information for Practitioners have not yet been finalised. A further Circular will be released covering these areas shortly.

1. Principal and Assistant Practitioners - Pensionable Pay

A new broader definition of NHS pensionable pay will apply for Principals and Assistants who are held on a performers list maintained by the NHS Board. The new definition, as from 01 April 2004 will be based on an assessment of actual earnings, after the deduction of expenses, in respect of a contract for primary medical NHS services.

The contract will be between a Principal Practitioner (Partner or Single Handed), an Assistant Practitioner (Salaried GP), a GMS or section 17C agreement Practice, an Out of Hours Provider, and any of the following that are registered as NHS Pension Scheme (NHSPS) Employing Authorities.

- (a) NHS Board
- (b) Special NHS Board
- (c) National Services Scotland
- (d) The Mental Welfare Commission
- (e) A NHS Board Primary Medical Services contractor
- (f) Any other body (such as a GP co-operative) which the Scottish Ministers agree to approve as an Employing Authority.

For the purpose of the definition pensionable earnings will include –

- Delivery of NHS services by a GMS / section 17C agreement practitioner
- Provision of NHS services by a GMS /section 17C agreement practitioner, sub-contracted directly from a GMS / section 17C agreement provider
- NHS board and advisory work
- NHS work by a GMS / section 17C agreement practitioner for local authorities, paid for by an Employing Authority.
- Practice based training of students funded through national education and training budgets.
- GMS / section 17C agreement practitioner certification
- Payments under such schemes as NHS quality, golden hello, GP retainer and seniority payments.
- Other NHS earnings (i.e. locum work)

GMS and section 17C agreement GP Partners and Single Handed GPs (i.e. principal practitioners) will have the choice of pooling ‘fringe’ earnings by paying these into the practice account and recording such income on a end of year certificate, currently being finalised. Alternatively the income may be retained by the individual GP, who is given a separate pension credit. Information about the procedures involved will be released in a further circular.

Assistant Practitioners performing work in addition to their normal GMS / section 17C agreement work should always keep earnings separate unless they have agreed to perform primary medical services on behalf of their employer. Assistant practitioners superannuation returns for normal GMS / section 17C work will be dealt with by practices through practice payroll.

GP’s who join the scheme from 1 June 1989 and those who rejoin the scheme after that date with a break of over a year are subject to the Inland Revenue pensions earnings cap.

GP earnings will not be pensionable where a GP (or a GP Practice) engages directly with a body (i.e. a prison, hospice, charitable organisation, insurance company, out of hour’s provider etc) that is not a NHSPS Employing Authority. GPs cannot pension earnings under a fee based arrangement with a NHSPS Direction Body.

If a GP wants to opt out of paying superannuation on ‘fringe’ NHS earnings they must opt out of the whole scheme in respect of their practitioner membership.

Expenses –

Earnings for all NHS work are now pensionable after deduction of expenses. The former classification arrangement has been replaced by assessment of actual expenses and NHS pensionable earnings, at individual practice level.

Expenses will, for example, include the cost of staff, premises and materials used to deliver services and the cost of getting work done where practices sub contract work to other practices or organisations.

In summary, expenses are not pensionable and payments for NHS work can only be pensioned once.

2. Medical Dynamising Factors

Professional and NHS employer representatives have agreed a revised method of calculating the dynamising factor to be used for uprating the pensionable earnings when calculating practitioner benefit entitlement.

For the year 2003-04, the factor has been based on an assessment of expected GP NHS earnings and expenses.

From the year 2004-05 onwards, the factor will be based on the movement in actual GP NHS earnings from one year to the next.

For both year's and onwards, an interim estimated factor will first be declared, followed by a final factor once complete data for the year is available. Interim dynamising factors have been announced for both 2003-04 & 2004-05. The Agency's circular 1/2005 announced an interim factor of 7.2% for 2003-04. For 2004-05 the interim factor is 6.1% and further details will be published shortly.

The Agency is currently carrying out a revision exercise on all Practitioner Awards from 01/04/2003 and onwards. The Agency will carry out two revisions for all benefits paid to Practitioners. The first will use interim dynamisation factors and the second will update this once final dynamisation factors are known.

In the unlikely event that pensions calculated (including dependents benefits) using the interim factor are found to have been overpaid because the final factor is lower, the overpayment will be recovered.

3. Non GP Partners

All non GP partners in GMS are now eligible to join the NHS Pension Scheme.

The NHS Board is the employer for NHSPS and NHS Injury Benefit Scheme purposes and Practitioner Service Division (PSD) will be responsible for submitting pension records and contributions to the Agency.

Practices must not complete pension records or submit contributions.

Non-GP Partners accrue NHSPS membership on a whole-time officer basis. Like GPs, they are entitled to NHS Injury Benefits but not redundancy benefits under the NHS Compensation Scheme.

They must agree their pensionable pay, on the basis of their partnership share as specified in writing with PSD. PSD will need to collect non GP Partner contributions through agreed deductions from the Practice global sum. They **must** also complete the end of year certificate (to be released).

PSD will investigate any irregularities in the non GP Partner's share that may have a significant impact on pension benefits.

All non GP Partners in GMS should join the NHSPS from 1 April 2004 or, if they joined the practice after that date from that date they joined. Arrears of contributions must be collected by PSD and submitted to SPPA, Finance Department with a detailed cover note.

Practices **must** submit NSR 2 (leavers forms) for staff who have become non GP Partners. The leaving date would be the previous day to becoming a non GP Partner.

PSD at present should forward all pension information for non GP Partners using electronic NSR forms to NHS Team 3. Non GP Partners are treated as whole time officers and the group code '01' service type '01' should be used when completing NSR Forms. The Pay reference number should be a single letter prefix as currently used for GP's (eg T – Tayside) followed by NONGP.

If a non-GP Partner wishes to opt out of the NHS Pension Scheme form SB34 must be completed.

4. Admission of Out of Hours Providers as NHS Pension Scheme Employing Authorities

Certain Out of Hours Providers can now apply to become Employing Authorities of the NHS Superannuation Scheme. These arrangements do not include NHS Boards, GMS or section 17C agreement practices undertaking out-of-hours work.

The application form can be found in Annex 1 of this circular.

Once completed the form is forwarded to the NHS Board whom they are primarily engaged with to perform NHS out of hours work.

NHS Boards and Out of Hours Providers (such as GP co-ops) should read carefully the qualifying criteria necessary to become a NHS Pension Scheme Employing Authority before completing the application.

OOHP **must** apply by 31 January 2006 if they wish to backdate scheme membership. OOHP who apply after 31 January 2006 will become approved from the date of the application. OOHPs will be able to decide if and when they want to apply.

The qualifying criteria is –

A company limited by guarantee;

- where all the members are GP Partners or shareholders, GMS or section 17C agreement contractors and there is a requirement on the majority to perform Out of Hours (OOHs) services
- which has a contract with a NHS Board or practice to provide OOHs services
- which is operated for the benefit of the general public
- which operated wholly or mainly in a way which is of a mutual trading character
- which is not a subsidiary of a commercial OOHP

or

A corporate body;

- where at least one member is a GMS or section 17C agreement contractor / GP partner or shareholder which operates on a 'not for profit' basis and requires any profits to be re-invested back into the business.
- which forbids the payment of dividends and requires assets to be transferred to a charity or similar body on its winding up.
- which has a contract with a NHS Board or practice to provide OOHs.
- which is not a subsidiary of a commercial OOHP.

If the NHS Board is satisfied that the OOHP meets the criteria (as above), they should write to the SPPA, NHS team 3, providing full details of the OOHP and their signed approval for the OOHP to become an Employing Authority. A copy of the completed application form should also be enclosed in correspondence.

SPPA will then contact the OOHP directly to arrange training, information and instruction of the pension requirements of Employing Authorities in Scotland.

In all cases the OOHP **must** meet and continue to meet the approval criteria from the relevant date.

An OOHP, whose application to become an Employing Authority is not approved by the relevant Health Board can write to SPPA if they wish to appeal.

Ceasing to be an approved OOHP

If an OOHP wishes to continue providing an OOHs service but gives up its status as a Scheme Employing Authority or ceases to operate as an OOHP, it **must** provide notice to its staff and the pensions Agency. All employees and employers superannuation contributions must be paid in full to relating termination date.

GPs and GP Locums

GPs and GP locums working in or for an approved OOHP will accrue the same Scheme rights as they would in other NHS GP work.

Non GP Staff employed by an approved OOHP –

Non GP salaried employees that work for an approved OOHP, which has been registered as a Scheme Employing Authority will automatically join the NHSPS. If employees wish to opt out of the scheme, they should complete form SB34.

Employees will accrue officer membership in the scheme and enjoy the same pension rights as practice staff employed by GMS or section 17C agreement practices. The NHS Injury Benefit Scheme and NHS Compensation Scheme regulations will not apply.

OOHP will be responsible for deducting employee contributions at 6% of pensionable pay (5% for manual workers). Pensionable pay **excludes** overtime, bonuses or expenses.

The OOHP will then need to forward the employee and employer (14%) contributions to the Pensions Agency. Guidance to be provided.

GPs (other than locums) engaged or employed by an approved OOHP –

GPs who are already Scheme members and who perform regular NHS work for an approved OOHP as an individual and under a fee based contract for services arrangement or a formal contract of employment **must** pension their OOHs work. The NHS Board with whom the GP or practice has a contract and / or is listed as a performer will normally be the Employing Authority and membership will be accrued on a practitioner basis.

If the GP is working for the OOHP on behalf of a GMS or section 17C agreement practice the OOHP is responsible for paying the practice the gross amount and supplying a professional receipt confirming the NHS work done, for inclusion in their end of year certificate of pensionable earnings. The gross amount must include employer's contributions as the earnings will be pensionable after deduction of expenses. Employer and employee contributions must be deducted from the net amount remaining.

If a GP performs regular NHS work for an OOHP on an individual basis rather than the on behalf of the practice the OOHP will be responsible for deducting employee contributions at 6% of pensionable pay. The OOHP will be liable for the employer contributions.

The OOHP will need to forward the employee and employer (14%) contributions to the Pensions Agency. Guidance to be provided.

If a GP working for an OOHP wishes to opt out of the scheme, they should complete form SB34. It is important to remember that if this form is completed they are opting out of the scheme for all GP work and not just the OOHs work.

GP Locums working for OOHP–

Where a GP Locum is **deputising** for an OOHP GP the GP locum and the OOHP will be required to complete new GP Locum forms C and D (still to be released). The GP locum must then send both forms to their regional Practitioner Services Division office as per Locum forms A & B. The information to be recorded and the time for completion is the same as already used for Locum Forms A & B.

The OOHP will be responsible for the payment of employer contributions (14%) in respect of the work and all the contributions (employer and employee) must be forwarded by the GP Locum to their Regional PSD office who will administer pension records and payments to SPPA.

PSD will combine earnings details that it submits to the Agency on the rare occasions where a Locum completes both practice based work and **deputising** work for an OOHP.

GP Locums who undertake regular OOHs work but not in a deputising role **must not record this work on locum forms C & D**. The OOHP would be responsible for forwarding contributions / pension information to the Agency.

5. Superannuation contributions

Practices are currently having a standard 15% of global sum deducted by the PSD. If any practice wishes to adjust this amount to take account of fluctuations in projected pensionable pay they should discuss this with PSD. This may be particularly relevant for practices where members are paying added years contracts or expect higher profit levels that they would like to budget for.

Future Seminars

The Agency in corroboration with PSD is hoping to run a series of explanatory seminars in Scotland for interested parties. Details of this will be announced as soon as the next GMS circular is released.

Agency Website & Literature

The Agency is currently reviewing the contents of its website and literature in relation to the new GMS contract. Updated information will be in place after release of the next GMS circular.

Contacts

If you have any questions about the contents of this circular, please contact Chris Swaile at the above address or at Chris.Swaile@scotland.gsi.gov.uk



Ian Clapperton
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Out of Hours Provider (OOHP) Application for NHSPS Employing Authority (EA) Status **ANNEX 1**
Part 1: to be completed by OOHP

- 1. Full title of the OOHP
- 2. Official Business address of the OOHP
(Please indicate website address if available)
- 3. Name of person responsible for providing SPPA with pension information
- 4. E-mail address of the named person at 3
- 5. Telephone number of the named person at 3
- 6. Postal address of the person named at 3
- 7. Are you a limited company (see description below) Yes go to 9 No go to 8

A company limited by guarantee, where the majority of the members (i.e. owners) are either GMS or section 17C agreement contractors whose GMS or 17C contracts require them to provide OOHs services, or GPs who are partners or shareholders of such a contractor (and all the remaining members are other GMS or 17C contractors or GPs who are partners or shareholders in such contractors). The company must have a contract to provide out of hours service for GMS / 17C contractors or 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.

- 8. Are you a corporate body (see description below) Yes go to 9 No **You cannot become a NHSPS EA**

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

- 9. The date you want NHSPS EA status to begin
- 10. Your signature
- 11. Your name in capitals and position held
- 12. Date

Please send this form by post with a copy of the Company Certificate (or your Companies House registered number) to either the Finance Dept or HR Dept of the principal Health Board with whom you have a contract to provide NHS OOH services. **Please keep a copy for reference**

Part 2. To be completed by the HB; please complete the box below that relates to this provider

I have read the guidance on the Agency's website (www.sppa.go.uk) and/or in the Circular 5/2005, have seen the Company Certificate (or equivalent) and am satisfied that the Out of Hours Provider named above,

- meets the criteria of a NHSPS EA does not meet the criteria of a NHS EA

Signature _____ Name and position of HB in capital _____
 Name of HB _____ Date _____

Please send a copy of this form to the OOHP, retain a copy for your own records and send original to Chris Swaile, SPPA, 7 Tweedside Park, Tweedbank, Galashiels, TD1 3TE