
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 120

**The Health and Social Care Pension Scheme
Regulations (Northern Ireland) 2015**

PART 8 N.I.

General

OOH provider N.I.

- 149.**—(1) A reference to an OOH provider is a reference to a body within paragraph (2) or (3).
- (2) A body is within this paragraph if it is a company limited by guarantee (which is not otherwise an employing authority)—
- (a) in which all the members of the company are registered medical practitioners, APMS contractors or GMS practices, and the majority of those members are—
 - (i) APMS contractors or GMS practices whose APMS contracts or GMS contracts require them to provide OOH services, or
 - (ii) registered medical practitioners who are partners or shareholders in an APMS contractor or a GMS practice which is a partnership or a company limited by shares and which is required to provide OOH services under its GMS contract or APMS contract;
 - (b) which has a contract with the [^{F1}Department], an APMS contractor or a GMS practice for the provision of OOH services; and
 - (c) in respect of which the [^{F2}Department], appointed by the Department to act on the Department's behalf—
 - (i) is satisfied that the provision of OOH services by the company is wholly or mainly a mutual trading activity;
 - (ii) is satisfied that the company has met all the conditions for being an OOH provider in this regulation; and
 - (iii) has, pursuant to a written application made by the company to it for that purpose, approved the company as an employing authority.
- (3) A body is within this paragraph if it is a body corporate, other than a company limited by guarantee (which is not otherwise an employing authority) which—
- (a) operates in the interests of those who are the recipients of the primary medical services it provides or of the general public;
 - (b) operates on a not-for-profit basis;
 - (c) is not an associated company in relation to another person;
 - (d) has memorandum or articles or rules that—
 - (i) prohibit the payment of dividends to its members; and

- (ii) require its profits (if any) or other income to be applied to promoting its objects, and
 - (iii) require all the assets which would otherwise be available to its members generally to be transferred on its winding up either to another body which operates on a not-for-profit basis and whose purpose is to provide health and social care for the benefit of the community or to another body the objects of which are the promotion of charity and anything incidental or conducive thereto;
- (e) has at least one member who is—
- (i) an APMS contractor or a GMS practice; or
 - (ii) a partner in a partnership that is an APMS contractor or a GMS practice; or
 - (iii) a shareholder in a company limited by shares that is an APMS contractor or a GMS practice;
- (f) has a contract with the [F3Department] , an APMS contractor or a GMS practice, for the provision of OOH services, and
- (g) is approved as an employing authority by the [F4Department] —
- (i) pursuant to a written application made by the body to it for that purpose; and
 - (ii) that the [F4Department] being satisfied that the body has met all the condition for being an OOH provider in this regulation.
- (4) For the purposes of paragraph (3)(c)—
- (a) a body corporate is another person's associated company if the person—
 - (i) has control of it; and
 - (ii) is not an employing authority;
 - (b) a person is taken to have control of a body corporate if the person—
 - (i) exercises, or is able to exercise direct or indirect control over its affairs, or
 - (ii) is entitled to acquire such control.
- (5) A company limited by guarantee or other body corporate which provides or is to provide OOH services and which wishes to be approved as an employing authority must make a written application to the [F5Department] , appointed by the Department to act on the Department's behalf.
- (6) An application referred to in paragraph (5) may specify the date from which approval by the [F6Department] (if given) shall have effect (“the nominated date”).
- (7) If a company limited by guarantee or other body corporate makes an application and—
- (a) the [F7Department] is satisfied that the company or other body corporate is within paragraph (2) or (3), as the case may be or will be at a nominated date which is later than the approval date; and
 - (b) it approves that application, the approval takes effect on the later of the nominated date and the approval date.
- (8) If paragraph (7) applies, HSC employment is treated as commencing on the later of the nominated date (if any) and the approval date.
- (9) The [F8Department] may give an OOH provider a notice in writing terminating its participation in this scheme if the provider—
- (a) does not have in force a guarantee, indemnity or bond as required by the Department in accordance with regulation 151.
 - (b) has ceased to be within paragraph (2) or (3);

- (c) has notified the [^{F8}Department] that any one of the following events has occurred in respect of it—
- (i) a proposal for a voluntary arrangement has been made or approved under Part II of the Insolvency (Northern Ireland) Order 1989 ^{M1} (“the 1989 Order”);
 - (ii) an administration application has been made, or a notice of intention to appoint an administrator has been filed with the court, or an administrator has been appointed under Part III of the 1989 Order;
 - (iii) a receiver, manager, or administrative receiver has been appointed under Part IV of the 1989 Order;
 - (iv) a winding-up petition has been presented, a winding-up order has been made or a resolution for voluntary winding-up has been passed under Part V of the 1989 Order;
 - (v) notice has been received by it that it may be struck off the register of companies, or an application to strike it off has been made, under Part 31 of the Companies Act 2006 ^{M2}.
- (10) An OOH provider—
- (a) must give the [^{F9}Department] notice in writing upon the occurrence of any of the events referred to in paragraph (9)(c) and must give the notice on the same day as the event;
 - (b) that wishes to cease to participate in this scheme must give both the RHSCB and its employees not less than 3 months notice in writing (to commence with the date of the notice) of that fact.
- (11) An OOH provider must cease to participate in this scheme on—
- (a) the date specified by the [^{F10}Department] in a notice under paragraph (9);
 - (b) the day upon which the period referred to in paragraph (10)(b) expires if a notice under that provision has been given.

Textual Amendments

- F1** Word in reg. 149(2)(b) substituted (1.4.2023) by The Health and Social Care Pension Scheme (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/33), regs. 1(2), **38**
- F2** Word in reg. 149(2)(c) substituted (1.4.2023) by The Health and Social Care Pension Scheme (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/33), regs. 1(2), **38**
- F3** Word in reg. 149(3)(f) substituted (1.4.2023) by The Health and Social Care Pension Scheme (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/33), regs. 1(2), **38**
- F4** Word in reg. 149(3)(g) substituted (1.4.2023) by The Health and Social Care Pension Scheme (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/33), regs. 1(2), **38**
- F5** Word in reg. 149(5) substituted (1.4.2023) by The Health and Social Care Pension Scheme (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/33), regs. 1(2), **38**
- F6** Word in reg. 149(6) substituted (1.4.2023) by The Health and Social Care Pension Scheme (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/33), regs. 1(2), **38**
- F7** Word in reg. 149(7)(a) substituted (1.4.2023) by The Health and Social Care Pension Scheme (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/33), regs. 1(2), **38**
- F8** Word in reg. 149(9) substituted (1.4.2023) by The Health and Social Care Pension Scheme (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/33), regs. 1(2), **38**
- F9** Word in reg. 149(10)(a) substituted (1.4.2023) by The Health and Social Care Pension Scheme (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/33), regs. 1(2), **38**
- F10** Word in reg. 149(11)(a) substituted (1.4.2023) by The Health and Social Care Pension Scheme (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023/33), regs. 1(2), **38**

Marginal Citations

- M1** S.I. 1989/2405 (N.I. 19)
M2 2006 c.46

Medical Practitioner **N.I.**

150.—(1) References to a medical practitioner must be construed in accordance with this regulation.

- (2) A medical practitioner is a fully registered person—
- (a) whose name is included in a medical performers list; and
 - (b) to whom any of paragraphs (3) to (7) apply.
- (3) This paragraph applies to—
- (a) a GMS practice,
 - (b) an APMS contractor, or
 - (c) an OOH provider.
- (4) This paragraph applies to a partner in a partnership that is—
- (a) a GMS practice, or
 - (b) an APMS contractor.
- (5) This paragraph applies to a shareholder in a company limited by shares that is—
- (a) a GMS practice, or
 - (b) an APMS contractor.
- (6) This paragraph applies to an ophthalmic provider.
- (7) This paragraph applies to a person—
- (a) who is employed by a GMS practice, an APMS contractor or an OOH provider wholly or mainly to assist the employer in the discharge of the employer's duties as a GMS practice, a PMS practice or an OOH provider, or
 - (b) who participates in a doctors' retainer scheme as provided for by the Department.

if the person performs essential services, additional services, enhanced services, dispensing services, collaborative services, commissioned services, OOH services, certification services, Board and advisory work, pharmaceutical services, general ophthalmic services, primary dental services, practice based services education or training, or organising the education or training of medical students or practitioners (or a combination of those services) as or on behalf of that practice, contractor or provider.

(8) A person who is a GP registrar is not a medical practitioner.

(9) A reference to a fully registered person must be construed in accordance with section 55 of the Medical Act 1983 ^{M3}.

(10) An ophthalmic provider is a principal medical practitioner who is included in an ophthalmic list kept and published by the [^{F11}Department] pursuant to regulation 8(1) of the General Ophthalmic Services Regulations (Northern Ireland) 2007 ^{M4}.

Textual Amendments

- F11** Word in [reg. 150\(10\)](#) substituted (1.4.2023) by [The Health and Social Care Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2023 \(S.R. 2023/33\)](#), regs. 1(2), **39**

Marginal Citations

- M3** 1983 c.54. The definition of ‘fully registered person’ has been amended by [S.I. 2000/3041](#); 2006/1914; 2007/3101 and 2008/1774
- M4** S.R. [2007 No.436](#)

Guarantees, bonds and indemnities **N.I.**

151.—(1) This regulation applies if—

- (a) an employing authority fails or has at any time in the past failed, to pay or to remit contributions in accordance with regulation 30 to 34, 56 or 61; and
- (b) the employing authority is—
 - (i) a GMS practice,
 - (ii) an APMS contractor, or
 - (iii) an OOH provider.

(2) The scheme manager may require the employing authority to have in force a guarantee, indemnity or bond which provides for payment to the scheme manager, if that authority fails to meet them, of all future liabilities under—

- (a) this scheme, or
- (b) the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999 ^{M5}.

(3) The guarantee, indemnity or bond must be in such form, in respect of such amount and provided by such person as the Department approves for the purpose.

Marginal Citations

- M5** S.R. [1999 No.294](#) as amended by S.R. [2002 No.129](#); S.R. [2004 No.104](#); S.R. 2005 Nos.154 and 533; S.R. [2006 No.410](#); S.R. 2008 Nos.130 and 350; S.R. 2010 Nos.22 and 286; S.R. [2012 No.42](#) and S.R. [2013 No.259](#) and S.R. [2015 No.121](#)

Definitions **N.I.**

152. The expressions listed in column 1 of the Table in Schedule 13 have the meaning given by the corresponding entry in column 2 in that table.

Changes to legislation:

There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015, PART 8.