
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 120

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

PART 8

General

OOH provider

- 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

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- (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 [F8Department] 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 [F9Department] 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 [F10Department] 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**

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Marginal Citations

M1 [S.I. 1989/2405 \(N.I. 19\)](#)

M2 [2006 c.46](#)

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