
STATUTORY INSTRUMENTS

2015 No. 94

The National Health Service Pension Scheme Regulations 2015

PART 8

Independent providers

Application for employing authority status

151.—(1) This regulation applies to a person (the applicant) who—

- (a) employs an individual under a contract of employment (the employee);
- (b) is not an employing authority in respect of the individual; and
- (c) is a party to a qualifying contract in respect of which the employee performs services.

(2) The applicant may apply to be granted the status of an employing authority in respect of the qualifying contract.

(3) An application must—

- (a) be in writing;
- (b) be in such form as the scheme manager requires;
- (c) contain a declaration that, at the date of the application, the employee satisfies the wholly or mainly condition;
- (d) contain an undertaking that a person who on or after the relevant date is engaged to perform services pursuant to the qualifying contract will do so in a way that satisfies the wholly or mainly condition;
- (e) contain a declaration that the applicant is not already an employing authority in respect of a person mentioned in sub-paragraph (c) or (d);
- (f) state whether the application is made on a closed approval or open approval basis;
- (g) provide an estimate for the scheme year in respect of which [^{F1}employing] authority status (if granted) would take account of—
 - (i) the gross sums the applicant anticipates receiving from the commissioning party in respect of the services it is to provide under each qualifying contract to which it is a party;
 - (ii) the number of employees who will be engaged in performing such services and who will satisfy the wholly or mainly condition;
 - (iii) the total pensionable earnings of those employees;
 - (iv) the total amount of members contributions payable by those employees pursuant to regulation 30 (by reference to the pensionable earnings bands into which they fall), 48 or 57;
 - (v) the total amount of employing authority contributions payable in respect of those employees pursuant to regulation 33, 34, 35, 48 or 57;

- (vi) the total number of employees who would satisfy the wholly or mainly condition and who are engaged in performing services pursuant to each such contract but who are otherwise not eligible to be members of this scheme;
 - (vii) the total estimated earnings of the employees referred to in paragraph (vi).
- (4) A closed approval basis relates to an employee—
- (a) who is not otherwise covered by—
 - (i) a direction under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 ^{M1}; or
 - (ii) a determination under section 25(5) of the 2013 Act; and
 - (b) who was, within the 12 months preceding the start of the employment contract with the applicant, in an employment in which the employee was entitled to participate in—
 - (i) superannuation benefits provided under section 10 of the Superannuation Act 1972 ^{M2} whether or not the employee had been a member of such a scheme pursuant to that entitlement; or
 - (ii) benefits provided under sections 1(2)(e) and 3 of the 2013 Act whether or not the employee had been a member of such a scheme pursuant to that entitlement^{F2}; and
 - (c) who—
 - (i) is performing services pursuant to a qualifying contract; and
 - (ii) satisfies the wholly or mainly condition]
- (5) An open approval basis relates to an employee performing services pursuant to a qualifying contract—
- (a) who satisfies the wholly or mainly condition;
 - (b) regardless of whether the employee is within paragraph (4).

Textual Amendments

- F1** Word in reg. 151(3)(g) substituted (1.4.2015) by [The National Health Service Pension Scheme, Injury Benefits and Additional Voluntary Contributions \(Amendment\) Regulations 2016 \(S.I. 2016/245\)](#), regs. 1(8), **80** (with reg. 105)
- F2** Reg. 151(c) and preceding word inserted (1.4.2017) by [The National Health Service Pension Scheme and Additional Voluntary Contributions \(Amendment\) Regulations 2017 \(S.I. 2017/275\)](#), regs. 2(c), **43(2)**

Marginal Citations

- M1** Section 7 has been amended by sections 10(5) and 29(1) and (4) of, and paragraphs 66 of Schedule 6 and Schedule 8 to, the [Superannuation Act 1972 \(c.11\)](#), [section 57](#) of, and Schedule 5 to, the [National Health Service Reorganisation Act 1973 \(c.32\)](#), [section 109](#) of, and paragraph 24 of Schedule 16 to, the [National Health Service \(Scotland\) Act 1978 \(c.29\)](#) and section 2 of, and paragraphs 28 and 29 of Schedule 1 to, the [National Health Service \(Consequential Provisions\) Act 2006 \(c.43\)](#).
- M2** 1972 c.11. Section 10 has been amended by sections 4(2) and 8(5) and (6) of the [Pensions \(Miscellaneous Provisions\) Act 1990 \(c.7\)](#), [section 190](#) of, and paragraph 7 of Schedule 8 to, the [Pension Schemes Act 1993 \(c.48\)](#), [section 27](#) of, and paragraphs 6 and 10 of Schedule 8 to, the [Public Service Pensions Act 2013 \(c.25\)](#) and article 108 of [S.I. 2001/3649](#).

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service Pension Scheme Regulations 2015, Section 151.