

## **2011/12 LIMITED COMPANY CERTIFICATE - FREQUENTLY ASKED QUESTIONS**

### **GENERAL**

**Q. What is the deadline for completing the 2011/12 Limited Company Certificate?**

A. The deadline for completing the 2011/12 Certificate and sending it to HSC Pensions Branch has been extended to Friday the 3th of May 2013.

**Q. Where should the Certificate be sent?**

A. HSC Pensions Branch, Waterside House, Derry, BT47 6FP.

**Q. Why do I have to complete the Certificate on an annual basis?**

A. A Provider's pensionable pay is based on their HSC income, less expenses. Therefore the only way to measure a Provider's pensionable pay is for them to complete an individual Certificate.

**Q. I have retired from my Provider post; do I still have to complete the Certificate?**

A. Yes, if you were in 'pensionable employment' during 2011/12.

You may also complete the Certificate solely for the purposes of establishing the seniority allowance even if you were not an active Scheme member in 2011/12 however this is not a legal requirement.

**Q. What happens if I don't complete the Certificate?**

A. GP (and non-GP) Providers are legally bound to complete the Certificate. Not completing the Certificate will have a detrimental effect on their (and their dependents) HSC pension benefits and any seniority allowance.

**Q. My accounting year-end is 5 April. This falls after the HSC Pension Year of 31 March in a fiscal year. Do I still include my tax return entries on the certificate for a period that finishes 5 days earlier?**

A. The 31<sup>st</sup> of March is the HSC Pension Scheme 'year end' however the tax 'year end' is the 5<sup>th</sup> of April. To all intents and purposes, the '5 day' difference can be ignored.

The golden rule is that the tax return forms the basis of the pensionable pay.

**Q. I am a non-GP Provider; do I still complete the Certificate?**

A. Yes. Every non-GP Provider must complete the Certificate annually. As non-GP Providers are classed by the Scheme as 'whole-time Officers' (regardless of the hours they work) they can only be 'pensionable' though in one Practice/Centre and therefore are only required to complete one Certificate. By virtue that non-GP Providers are classed as whole-time they must decide, after seeking expert advice, which of their HSC posts should be pensionable.

**Q. I am a GP Provider in two or more separate Practices/Centres; do I need to complete two Certificates?**

A. Yes, even if the Practices are located within the same PCT/LHB boundary.

**Q. I am a GP Provider; do I have to complete more than one Certificate if I had more than one host PCT or LHB in the same year?**

A. If you relocated during the year then you must complete a Certificate in respect of each Practice. However, if your host PCT/LHB changed due to a PCT/LHB merger (but you did not change Practices) only one Certificate is required. If you moved from England or Wales to

Scotland or Northern Ireland you will need to complete one Certificate in respect of England/Wales and another in respect of Scotland or Northern Ireland.

- Q. I am a salaried GP (i.e. a Performer) directly employed (i.e. schedule E) by a Practice, PCT, LHB, or SPMS/APMS Provider; do I have to complete a form?**
- A. Yes, you are legally required to complete a Type 2 self-assessment form at the end of pensions year 2011/12. This is to ensure you have paid the correct rate of tiered contributions. This form is on HSC Pensions website.
- Q. Am I subject to 'pension overlap' when dealing with pensionable pay from a limited company?**
- A. No. Pension overlap only arises in a self-employed or partnership situation where the accounts are not drawn up to a 31 March or 5 April year end. In a limited company the pensionable income derived is from salary and/or dividends paid in the tax year. As the income is based upon the tax year, no overlap period is created.
- Q. What is a HSC Pension Scheme (HSCPS) Employing Authority (EA)?**
- A. A HSCPS Employing Authority in respect of GPs is generally the PCT, LHB, or OOHP.
- Q. Are GP shareholders eligible for seniority payments?**
- A. Much depends on the contract; GP shareholders should seek clarification from their PCT/LHB.
- Q. My GMS/PMS/APMS Practice converted from being a partnership to a limited company on the 1<sup>st</sup> of October 2011, how does this affect the Certificate?**
- A. Each GP (and non-GP) Provider must complete 2 Certificates, the main Certificate covering the period 01/04/2011 to 30/09/2011 and the Ltd Co Certificate covering the period 01/10/2011 to 31/03/2012.
- Q. I am a GP with my own Ltd Co Practice however, for tax reasons, have separately set up another Ltd Co as a 'vehicle' for my fringe HSC (i.e. PEC, OOHs) income to flow through; is this pensionable?**
- A. No. If you have set up a limited company yourself (i.e. as an individual) that is a separate legal entity to your Practice any income that is paid to you cannot be pensionable. This is because the unique' limited company that you have set up does not qualify under the Regulations as an Employing Authority or as an individual member.

### **HSCPS RETIREMENT RULES**

- Q. What are the rules regarding claiming HSC pension benefits?**
- A. A GP shareholder (Provider) and non-GP shareholder (Provider) must terminate any involvement in the contract in order to claim their pension. This means they must cease to be a shareholder for at least 24 hours.

A GP Provider (or non-GP Provider) who is the sole shareholder must completely terminate their contract with the PCT/LHB. If they are one of a number of shareholders they must give up their shares however the actual contract can remain intact.

### **HSC PENSIONABLE INCOME (DIVIDENDS & SALARY)**

- Q. What is classed as HSC pensionable pay in 2011/12?**
- A. Please see Annex A below.

**Q. I am a GP Shareholder; do I have to 'pension' all of my HSC GP work?**

A. Yes, you must 'pension' all of your eligible HSC GP (Practitioner) income; you cannot opt out of 'pensioning' certain parts of Practitioner income. As far as the Ltd Co Practice/Centre is concerned you must 'pension' all the income you draw down. Any income (profits) retained in the business are not pensionable even if you take this (reserved) income in the future.

You can opt out of pensioning salaried Officer posts such as hospital based clinical assistant or community posts however you cannot opt out of pensioning bed fund posts.

**Q. How should a GP shareholder 'pension' OOHs income?**

A. A GP Shareholder may find it helpful for their SOLO income to be paid into their personal account rather than the Practice/Centre account. This should make it easier if the OOH has to collect arrears of employee tiered contributions because it did not apply the correct tiered rate in the first instance.

**Q. I am a GP Provider, can I pension income as a GP Provider through my own Practice earned from working for another Practice that I may (or may not) be involved in as a Partner or shareholder?**

A. No. This is strictly forbidden under the HSCPS Regulations.

**Q. I am a GP Provider, can I 'pension' work as a GP Locum in my own Practice(s)?**

A. No. This is strictly forbidden under the HSCPS Regulations.

**Q. Is medical school income pensionable?**

A. No. Although some medical schools are granted special Scheme 'Direction' Status, any fees paid to a GP (or Practice) by a medical school are not 'pensionable'. Only salaried employees of an open 'Directions body' may join the Scheme.

**Q. Is prison work pensionable?**

A. Yes, however only if the fees are being paid directly to the GP/Practice by the PCT/LHB.

**Q. Is Clinical Commissioning Group (CCG) income in 2011/12 pensionable?**

A. Yes, but only if paid directly to a GP by a PCT/LHB. If it's paid by a third party (including a CCG) it is not pensionable.

**Q. How should PEC income be recorded?**

A. All GPs (except GP Locums) must 'pension' their PEC income. GP Shareholders can elect to either SOLO or pool their PEC income.

PCTs/LHBs must not set up a unique pensionable employment in respect of fee based PEC work; this is in accordance with previous guidance, the HSC Pension Scheme Regulations, and Health Service Circular 2000/005 issued by the Dept of Health in March 2000.

**Q. What is deemed pensionable sick pay?**

A. GPs who suffer a genuine loss of pensionable income as a result of long-term illness may qualify for deemed pensionable sick pay to be credited to their pension records however they must pro-actively apply for this by contacting HSC Pensions.

**Q. The GP (and non-GP) Providers (i.e. shareholders) draw down their profits as a combination of salary and dividends. Are the dividends pensionable?**

- A. Where a Practice is a limited company, any dividends taken are pensionable subject to them being solely in respect of HSC work and year 2011/12. Any income retained in the business can never be pensioned.
- Q. Are the gross dividends or the net dividends pensionable?**
- A. It is the net dividends that are actually drawn down in 2011/12 and that relate to 2011/12 that are pensionable.
- Q. Are all the net dividends and salary pensionable?**
- A. No, only those that are drawn down at the time and are wholly attributable to GMS, PMS, or APMS.
- Q. Are dividends pensionable if they are held in reserve and taken in a future year?**
- A. No; there are no provisions in the HSCPS Regulations to 'pension' reserves. It is only the HSC net dividends that are actually taken in the relevant year that are pensionable.
- Q. Is a capital distribution of 2011/12 funds pensionable?**
- A. No. Only income in the form of dividends and salary taken are pensionable and they must only relate to year 2011/12 profits.
- Q. What happens when there are sources of non-HSC income in the company accounts?**
- A. That element of non-HSC income must be stripped out of the dividend and salary so that it is not pensioned.
- Q. How is the non-HSC income stripped out of a salary?**
- A. Simply by applying the percentage of HSC income to total income from the company accounts year end falling into the tax year 2011/12 to the salary taken in that tax year.
- Q. But where the accounting year-end is not March, the percentage applied to the salary will not have been calculated upon the income for the period the salary was earned?**
- A. That is correct. However, for the ease of application, a straightforward method has been implemented.
- Q. What happens when an existing company has undistributed reserves brought forward from a time before an HSC contract was entered into?**
- A. Undistributed reserves are not pensionable.
- Q. What happens if I dispose of, or acquire shares?**
- A. The working of the Certificate will not be affected as the pensionable pay follows your entitlement regardless of the level. Your entitlement to dividends decreases or increases appropriately.
- Q. If, once I have actually received a 2011/12 dividend payment, I decide to reinvest some of that money back into the company, will this affect my pensionable pay?**
- A. So long as you have actually been paid a net HSC dividend that relates solely to year 2011/12 it is pensionable. What you do with that money thereafter is up to you.
- Q. What are the tax implications regarding the 'pensioning' of dividends?**
- A. HSC Pensions cannot provide financial or tax advice; please consult HMRC or your accountant..

## **TIERED EMPLOYEE CONTRIBUTIONS/EMPLOYER CONTRIBUTIONS**

**Q. How are a GP (or non-GP) Provider's tiered contributions assessed in 2011/12?**

A. They are basically based on their 2011/12 total GP pensionable pay, table as follows.

Tier	Actual Pensionable Pay – 2011/12	Contribution Rate 2011/12
1	Up to £21,175.99	5%
2	£21,176.00 to £69,932.99	6.5%
3	£69,933.00 to £110,273.99	7.5%
4	£110,274.00 plus	8.5%

- The basic rule is that a GP (or non-GP) Provider's 2011/12 tiered contribution rate is based upon their total 2011/12 certified HSC pensionable pay. For a GP Provider this includes Practice income + GP Locum + OOHs + PEC + Bed Fund income. For a non-GP Provider it's their Practice income.
- Before the start of the pensions year every GMS or PMS Practice (and every APMS contractor that qualifies as an Employing Authority) must complete a form declaring a best estimate of projected pensionable income in respect of the GP Providers, non-GP Providers, and Salaried GPs. This form can be downloaded from HSC Pensions website and must be returned to the relevant PCT/LHB before the pension year starts. If a Practice fails to complete the declaration the PCT/LHB may set a standard 8.5% rate.
- If a GP holds a concurrent salaried Officer post (i.e. Clinical Assistant) that Officer income is kept separate and will be afforded it's own unique tier; i.e. it is ring fenced and not affected by the GP rate.
- Guidance for freelance GP Locums is available on Locum forms A and B.

## **ADDED YEARS/ADDITIONAL PENSION**

**Q. I am a buying 'Added Years'; do I have to pay additional contributions on all of my HSC GP income?**

A. Yes, if you are buying Added Years you must also pay additional contributions in respect of all your pensionable HSC income.

Since April 2008 the cap no longer applies in respect of mainstream HSC pensionable income. However, if you took out an Added Years contract prior to 1 April 2008, and your mainstream income was previously capped before that date, your Added Years contributions will be capped at £129,600 for 2011/12.

**Q. Where can I find more information about the new Additional Pension?**

A. On HSC Pensions website; <http://www.HSCbsa.HSC.uk/Pensions/calculators.aspx>.

## GP Providers Pensionable Pay

GP Providers (i.e. type1/Principal Practitioners) pensionable income is listed below and is subject to the payments being net of expenses. The fees must be in respect of HSC primary medical services and be paid directly to the GP (or Practice) by a PCT, a LHB, or Out of Hours Provider (that qualifies as a HSCPS Employing Authority). GP Providers must 'pension' income in respect of the following;

Additional services

Adoption and fostering work (Collaborative services)

APMS (Alternative Provider of Medical Services: Technical Newsletter 6/2007 refers).

Appraisal work

Blue (disabled) badge scheme (Collaborative services)

Board and advisory work (non-clinical work and includes Primary Care Trust Executive Committee (PEC) work.

Case conference and other meetings arranged by Social Services (Collaborative services)

Certificates to enable chronically disabled/blind persons to obtain telephones (Collaborative services)

Certification services

Clinical Commissioning Group (paid directly by a PCT/LHB and not a CCG)

Collaborative services (in accordance with section 26(4) of the 1977 Health Act)

Commissioned services

Contract price (PMS)

Dispensing

Dispensing services (i.e. the provision of drugs, medicines, and appliances).

Educating medical students or GPs in a Practice (The fees must come directly from the PCT/LHB and not a medical school or university)

Enhanced services (direct, local, or national)

Essential services

Family planning (Commissioned services)

Food poisoning notifications (Commissioned services)

General/Personal Dental Services

General Ophthalmic Services

Global sum (GMS)

GMS

GP Locum work (This work must always be recorded on GP Locum forms A, & B which can be downloaded from the HSC Pensions website. It must never be recorded on form SOLO or paid (as pooled pensionable income) into the Practice accounts. A GP Provider cannot record GP work as GP Locum work in their own Practice)

GPsWSI (GPs with special interests) work (Commissioned services)

IT

Lecture fees (Commissioned services)

Marriage difficulty sessions (Commissioned services)

Medical certificates (as listed in the GMS Contracts Regulations)

Out Of Hours work for a PCT, LHB, Trust, or an OOHP that is an Employing Authority.

PCT sessions (Commissioned services)

PCO administered funds

PEC

PMS

Practice Based Commissioning (PBC) (Only if paid **direct** to a GP, or GMS/PMS Practice, by a PCT/LHB)

Premises (i.e. notional rent)

Priority housing reports requested by local authorities, (Collaborative services)

Prisoners healthcare (Fees in respect of a prisoner's healthcare are pensionable subject to the PCT/LHB paying the fees directly to the GP/Practice)

QOF (quality and outcome framework)

'Section 12' or mental health work (Collaborative services)

Seniority payments

Sessional work commissioned by family planning clinics (Collaborative services)

Social services reports (Collaborative services)

SPMS (Specialist Personal Medical Services: Technical Newsletter 6/2007 refers)

**(NB: Any undistributed income held in reserve can never be pensioned)**

#### GP Providers Income That Is Not Pensionable

Fees paid to a GP (or Practice) by a LMC, a medical school, a HSC Pension Scheme 'Direction Body' (i.e. a hospice), the police, the DWP, a Local Authority, the Ministry of Defence, or by the HSC Pensions Division (in respect of HSC ill health pension or Injury Benefit Scheme medical reports) are not pensionable.

Fees paid to a GP in respect of the national 'Drug Intervention Programme' and private fees (i.e. travel vaccination fees not funded by the HSC) are not pensionable.

Fees paid to a GP by a hospital under a 'honorary contract' or under a service level agreement are not generally pensionable however contact HSC Pensions for further guidance.

Funds that a Practice may inherit from another business, by virtue of acquiring that business, and that are drawn down later as a salary or dividends are not pensionable in the HSC Pension Scheme.

#### Non GP Providers Pensionable Pay

A non-GP Provider (i.e. a shareholder who is not a GP) is classed as whole time Officer for HSC Pension Scheme purposes. Their HSC pensionable pay is their share of the GMS/PMS/sPMS/APMS

Practice HSC profits less expenses. This will include pensionable income in respect of 'ad hoc' GP work that any GP Partners have elected to 'pool'.

**Non-GP Providers can only 'pension' income from one Practice/Centre**