

NHS Widening Access Training Scheme Lines to Take

This guidance is intended to give an overview of the Class 1 National Insurance contributions (NICs) disregard that can apply to employees of NHS Trusts who are undertaking a course on the NHS Widening Access Training (NHS WAT) scheme) or a university standard equivalent.

Employees of National Health Trusts can receive payments where they are required to undertake a full-time training course aimed at widening their professional knowledge. These are known as a NHS WAT scheme.

A typical scenario will involve an employee (e.g. a nurse, physiotherapist, doctor etc.) temporarily swapping their normal day-to-day working pattern (either full-time or part-time) in order to attend a NHS WAT scheme course instead. Their employer requires them to attend this course and so pays them for their attendance at a rate which may be at, or lower than, their usual earnings level. When the course is completed the employee will then resume working activities for their employer.

There is a special rule for tax purposes (SP4/86) that can apply to the earnings that a NHS Trust pays to an employee for attending a course under the NHS WAT scheme. For NICs purposes there is a disregard which seeks to remove Class 1 NICs liability on earnings paid in relation to attending the course. When certain conditions are satisfied (see details in box below) this disregard applies so that earnings of up to £15,480 paid by the employer to the employee for attending the course in an academic year, running from 1 September to 31 August can be 'disregarded' from the calculation of earnings for Class 1 NICs purposes. This means that neither the secondary contributor (usually the employer) nor the employee will be liable to pay Class 1 NICs on the earnings paid for attending the course in the academic year up to that amount.

This NICs disregard is provided by paragraph 12 in Part VII to Schedule 3 of the Social Security (Contributions) Regulations 2001 [SI 2001/1004] – see appendix for the full text.

This NICs disregard will apply to earnings of up to £15,480 paid to the employee in an academic year if all of the following conditions are met:

The student

1. is an employee of the NHS Trust; and
2. is receiving full-time instruction at a university, technical college or similar educational establishment (within the meaning of section 331 of the Taxes Act); and
3. must have enrolled at the educational establishment for a course lasting at least one academic year at the time the earnings are paid
4. the secondary contributor must require them to attend the course for an average of at least 20 weeks in an academic year; and
5. the total amount of earnings payable to them in respect of their attendance, including lodging, travelling and subsistence allowances, but excluding any tuition fees, **must not exceed £15,480 in any academic year.**

The educational establishment

6. must be a university, technical college or similar educational establishment (within the meaning of section 331 of the Taxes Act); and
7. must be open to members of the public generally; and
8. must offer more than one course of practical or academic instruction; and

9. must not be run by the secondary contributor or a person who would be treated by section 839 of the Taxes Act as connected with them, or by a trade organisation of which the secondary contributor is a member.

The NICs position if these conditions are met.

If all of these conditions are met then the employee and the secondary contributor (usually the employer) will not have to pay Class 1 NICs on earnings of up to £15,480 paid to the employee for attending the course in the academic year. This payment must be in respect of their attendance on the course, including lodging, travelling and subsistence allowances, but excluding any tuition fees, for the disregard to apply.

Are they an employee or under a 'contract of training'?

As you can see this disregard is only available to employees i.e. those that are contractually employed by their employer under a contract of service. If they are not an employee but under a 'contract of training' then the disregard will not apply. However, any payments made to a person who is under a contract of training is not regarded as being a payment of earnings for Class 1 NICs purposes in any case and so no NICs will be due on such payments.

It is therefore important to establish the contractual position if it is not clear from the information provided. It is possible for an employee to have their employment contract temporarily suspended and be transferred on to a contract of training when undertaking the course. However, we would not expect someone on a contract of training to be contributing to an NHS pension scheme as this is usually only open to employees.

What if the employee is paid more than £15,480 for attending the course?

If the employee **is paid more than £15,480** in the academic year for attending the course then **Class 1 NICs will be due on the full amount of any payments made** for attending the course, whether the payment is made in instalments or as one payment - unless it is not known at the outset of the academic year that the cost of attending the course is likely to exceed the amount of the NICs disregard.

For example, Jim is a biomedical scientist. From April to August he works for his employer. Then during the academic year September to April he is required to undertake full-time study on a course under the NHS WAT scheme. His annual salary is £30,000. When attending the course all of the conditions on page 1 are satisfied for the NICs disregard to apply.

Earnings paid during the period April to August, when Jim is carrying out his employment, will attract a primary and secondary Class 1 NICs liability as normal.

Earnings of up to £15,480 paid to him for attending the course during the academic year (April to September) will be disregarded from the calculation of earnings for Class 1 NICs purposes provided that the cost of attending the course does not exceed (or is not expected to exceed) £15,480 in the academic year.

If it is known that the cost of attending the course exceeds £15,480 in the academic year all payments in respect of attending the course will attract a Class 1 NICs liability in any case. See the examples below which explain the different positions.

For example, John is a biomedical scientist and is attending a course which meets all of the conditions set out on page 1. The cost of attending the course is £15,000 in the academic year. All of the payments related to John's attendance on the course are within the NICs disregard as they are

less than £15,480 for the academic year. So, if the employer makes a single payment of £15,000 or a payment of £5,000 for each of three terms, all of the payments will be disregarded from the calculation of earnings for Class 1 NICs.

For example, Peter is a biomedical scientist and is attending a course which meets all of the conditions set out on page 1. The cost of attending the course is £18,000 in the academic year. All of the payments related to Peter's attendance on the course are outside of the NICs disregard and liable for Class 1 NICs on the full amount as the cost of attending the course is expected to be more than the level of the NICs disregard of £15,480. So, if the employer makes a single payment of £18,000 or three payments of £6,000 for each of three terms, all of the payments will be liable for Class 1 NICs.

For example, Sarah is a biomedical scientist and is attending a course which meets all of the conditions set out on page 1. The cost of attending the course is expected to be £15,000 in the academic year. All of the payments related to Sarah's attendance should, therefore be within the NICs disregard. Sarah's employer makes two payments of £5,000 each for the first two terms. Unexpectedly, the cost of attending the third term increases from £5,000 to £6,000 so the overall cost of attending the course in the academic year is £16,000 which exceeds the level of the £15,480 NICs disregard. At the start of the academic year it was not expected that the cost of the course would exceed the limit of the NICs disregard so the payments made in the first two terms (£5,000 + £5,000) are disregarded from the calculation of earnings for Class 1 NICs purposes and, therefore, not liable for Class 1 NICs. The payment for the final term of £6,000 is liable for Class 1 NICs on the full amount. If, alternatively, Sarah's employer made only one payment of £16,000 this would be liable for Class 1 NICs on the full £16,000.

What if the employee also carries out other work for their employer?

If, in addition to attending a course under the NHS WAT scheme, the employee also performs work for their employer, whether during study vacations or otherwise, then any payments made to them by the employer will be liable for Class 1 NICs. The NICs disregard will not apply to those earnings.

For example, Amy is a chiroprapist. She is undertaking study on the NHS WAT scheme, meeting all of the conditions on page 1, and is paid £27,000 by her employer. In addition, all of the conditions are satisfied for the NICs disregard to apply for attending the course during the academic year as the cost of attending the course is £15,480 or less. Whilst attending her full-time course Amy also works for her employer during study breaks and occasionally at weekends.

The NICs disregard will not apply to the earnings that Amy receives for the work she does during study breaks and weekends. Class 1 NICs will be due on these earnings.

Does the disregard apply to full-time and part-time employees?

The disregard requires that at the time the payment is made the employee must be receiving full-time instruction, on a course that lasts for at least one academic year, and that they are required to attend for an average of at least 20 weeks in each academic year.

As such, it is possible for the disregard to apply to both part-time and full-time employees. The determining factor here is that instead of actually working for their employer on their usual full or part-time basis, the employee is now in full-time instruction on a course under the NHS WAT scheme instead. If all of the other conditions are satisfied then the disregard can apply. This will also be the case if it takes a part-time employee longer to complete the course than it does a full-time employee. The main factor in any case is that rather than carry out their contractual working hours the employee is receiving full-time instruction instead.

For example, David and Angela are employed as physiotherapists. David is a full-time employee and contracted to work 37 hours per week. Angela is a part-time employee and contracted to work 16 hours per week. Their employer requires them to undertake further training on a course under the NHS WAT scheme.

As long as all of the conditions are satisfied both David and Angela will be entitled to the NICs disregard. The fact that Angela works part-time and it may take her longer to complete the course than David (e.g. 2 years rather than 1, or 4 years rather than 2 etc.) does not exclude her from this. In both cases contractual hours that David and Angela would usually be required to work are now taken up by full-time instruction on the course instead.

However, if an employee (full-time or part-time) is not receiving **full-time instruction** then the disregard will not apply.

For example, Bill is employed on a full-time basis as a pharmacist. He is required to undertake further training. Due to the way the course is delivered **he continues to carry out his normal job for 4 days per week** and on the other day he attends university. In this situation Bill **is not considered to be receiving full-time instruction and so the disregard cannot apply**. The disregard only applies when the employee swaps their normal working activity for full-time instruction.

If in doubt you will need to establish the full facts before determining whether or not the disregard applies.

Appendix.

[Payments made by employers to earners in full-time attendance at universities &c
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(1) A payment to an employed earner receiving full-time instruction at a university, technical college or similar educational establishment (within the meaning of section 331 of the Taxes Act) if

the conditions in sub-paragraphs (2) to (6) are satisfied, but subject to the exclusion in sub-paragraph (7).

(2) The employed earner must have enrolled at the educational establishment for a course lasting at least one academic year at the time when payment is made.

(3) The secondary contributor must require the employed earner to attend the course for an average of at least twenty weeks in an academic year.

(4) The educational establishment—

(a) must be open to members of the public generally,

(b) must offer more than one course of practical or academic instruction.

(5) The educational establishment must not be run by—

(a) the secondary contributor, or a person who would be treated by section 839 of the Taxes Act as connected with him; or

(b) a trade organisation of which the secondary contributor is a member.

(6) The total amount of earnings payable to the earner in respect of his attendance, including lodging, travelling and subsistence allowances, but excluding any tuition fees, must not exceed [£15,480] in respect of an academic year.

(7) This paragraph does not apply to any payment made by the secondary contributor to the employed earner for, or in respect of, work done for the secondary contributor by the earner (whether during vacations or otherwise).

(8) This paragraph has effect in respect of payments made in relation to the academic year beginning on 1st September 2005 and subsequent academic years.

(9) In this paragraph—

“academic year” means the period beginning on 1st September of one calendar year and ending on 31st August of the following calendar year.

“trade organisation” means an organisation of secondary contributors (in their capacity as employers) the members of which carry on a particular profession or trade for the purposes of which the organisation exists.]