
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 115

The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004

PART 3

Pre-contract Dispute Resolution

Pre-contract disputes

9.—(1) If, in the course of negotiations intending to lead to a contract, the prospective parties to that contract are unable to agree on a particular term of the contract, either party may refer the terms of the proposed contract to the Scottish Ministers to consider and determine the matter.

(2) Disputes referred to the Scottish Ministers in accordance with paragraph (1) shall be considered and determined in accordance with—

(a) the NHS dispute resolution procedure, as if—

(i) in paragraph 91(3)(b) of Schedule 5, “contract” read “terms of the proposed contract”;

(ii) paragraph 92(2) of Schedule 5 were omitted; and

(b) paragraph (3) of this regulation.

(3) In the case of a dispute referred to the Scottish Ministers under paragraph (1), the determination of the adjudicator—

(a) may specify terms to be included in the proposed contract;

(b) may require the Health Board to proceed with the proposed contract but may not require the proposed contractor to proceed with the proposed contract; and

(c) shall be binding upon the prospective parties to the contract.