

SCHEDULE 5

OTHER CONTRACTUAL TERMS

PART 8

Variation and Termination of Contracts

Contract sanctions

105.—(1) In this paragraph and paragraph 106 , “contract sanction” means—

- (a) the termination of specified reciprocal obligations under the contract;
- (b) the suspension of specified reciprocal obligations under the contract for a period of up to six months; or
- (c) the withholding or deducting of monies otherwise payable under the contract.

(2) Where the Health Board is entitled to terminate the contract pursuant to paragraph 100,101,102,103(4) or (6) or 104 , it may instead impose any of the contract sanctions if the Health Board is reasonably satisfied that the contract sanction to be imposed is appropriate and proportionate to the circumstances giving rise to the Health Board’s entitlement to terminate the contract.

(3) The Health Board shall not, under sub-paragraph (2), be entitled to impose any contract sanction that has the effect of terminating or suspending any obligation to provide, or any obligation that relates to, essential services.

(4) If the Health Board decides to impose a contract sanction, it must notify the contractor of the contract sanction that it proposes to impose, the date upon which that sanction will be imposed and provide in that notice an explanation of the effect of the imposition of that sanction.

(5) Subject to paragraph 106, the Health Board shall not impose the contract sanction until at least 28 days after it has served notice on the contractor pursuant to sub-paragraph (4) unless the Health Board is satisfied that it is necessary to do so in order to—

- (a) protect the safety of the contractor’s patients; or
- (b) protect itself from material financial loss.

(6) Where the Health Board imposes a contract sanction, the Health Board shall be entitled to charge the contractor the reasonable costs of additional administration that the Health Board has incurred in order to impose, or as a result of imposing, the contract sanction.