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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 142**

**The General Medical Services (Transitional and  
Other Ancillary Provisions) (Scotland) Order 2004**

**PART 6**

**FINANCIAL ARRANGEMENTS**

**Conditions, set offs etc. relating to payments under a default contract**

**39.**—(1) Payments are only payable under article 36 or 38 in circumstances where the contractor has made available to the Health Board any information which the Health Board does not have but needs, and which the contractor either has or could reasonably be expected to provide, in order for the Health Board to be able to calculate the payment.

(2) The obligations to make payments under articles 36 and 38 are subject to any right that the Health Board may have to set off against any amount payable to the contractor under the default contract any amount—

- (a) that is owed by the contractor to the Health Board under the default contract; or
- (b) that the Health Board may withhold or deduct as a contract sanction, in accordance with the terms of the default contract.

(3) A Health Board may—

- (a) require repayment of any amount that has been paid to a contractor under its default contract but to which the contractor was not entitled; and
- (b) set off against any amount payable under a default contract an amount that has been paid to a contractor under its default contract but to which the contractor was not entitled.