
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 162

The Primary Medical Services (Sale of Goodwill and Restrictions on Sub-contracting) (Scotland) Regulations 2004

Amendment of the GMS Contracts Regulations

4.—(1) In paragraph 62 of Schedule 5 to the GMS Contracts Regulations (sub contracting of clinical matters), after sub paragraph (9) insert—

“(10) The contractor shall not sub contract any of its rights or duties under the contract in relation to the provision of essential services to a company or firm—

- (a) owned wholly or partly by the contractor, or by any former or current employee of, or partner or shareholder in, the contractor;
- (b) formed by or on behalf of the contractor, or from which it derives or may derive a pecuniary benefit; or
- (c) formed by or on behalf of a former or current employee of, or partner or shareholder in, the contractor, or from which such a person derives or may derive a pecuniary benefit,

where that company or firm is or was formed wholly or partly for the purpose of avoiding the restrictions on the sale of goodwill of a medical practice in section 35 of the Act or any regulations made wholly or partly under that section.”.

(2) After paragraph 102 of Schedule 5 to the GMS Contracts Regulations (other grounds for termination by the Health Board) insert—

“Termination by the Health Board for unlawful sub contracting

102A. If the contractor breaches the condition specified in paragraph 62(10) and it comes to the Health Board’s attention that the contractor has done so, the Health Board shall serve a notice in writing on the contractor—

- (a) terminating the contract forthwith; or
- (b) instructing it to terminate the sub contracting arrangements that give rise to the breach forthwith, and if it fails to comply with the instruction, the Health Board shall serve a notice in writing on the contractor terminating the contract forthwith.”.