
STATUTORY INSTRUMENTS

2008 No. 1185

The General Ophthalmic Services Contracts Regulations 2008

PART 4

Health Service Body Status

Health service body status

8.—(1) Where a proposed contractor elects, in a notice served on the PCT at any time prior to the contract being entered into, to be regarded as a health service body for the purposes of section 9, it shall be so regarded, but only so far as concerns the contract, from the date on which the contract is entered into.

(2) If, in accordance with paragraph (1) or (5), a contractor is to be regarded as a health service body, that fact shall not affect the nature of, or any rights or liabilities arising under, any other contract with a health service body entered into by that contractor before the date on which the contractor is to be so regarded.

(3) Where a contract is made with an individual or two or more persons practising in partnership, and that individual or that partnership is to be regarded as a health service body in accordance with paragraph (1) or (5), the contractor shall, subject to paragraph (4), continue to be regarded as a health service body for the purposes of section 9, but only so far as concerns the contract, for as long as that contract continues and irrespective of any change in—

- (a) the partners comprising the partnership;
- (b) the status of the contractor from that of an individual to that of a partnership; or
- (c) the status of the contractor from that of a partnership to that of an individual.

(4) A contractor may at any time request a variation of the contract to include or remove the provision from the contract that the contract is an NHS contract, and if it does so—

- (a) the PCT shall agree to the variation; and
- (b) the procedure in paragraph 33(1) of Schedule 1 shall apply (variation of a contract: general).

(5) Where, pursuant to paragraph (4), the PCT agrees to a variation of the contract, the contractor shall—

- (a) be regarded; or
- (b) subject to paragraph (7), cease to be regarded,

as a health service body for the purposes of section 9, but only so far as concerns the contract, from the date that variation takes effect pursuant to paragraph 33(1) of Schedule 1.

(6) Subject to paragraph (7), a contractor shall cease to be regarded as a health service body for the purposes of section 9 if the contract is terminated.

(7) Where a contractor ceases to be a health service body pursuant to—

- (a) paragraph (5) or (6), it shall continue to be regarded as a health service body for the purposes of being a party to any other general ophthalmic services contract entered into

after it became a health service body, but before the date on which the contractor ceased to be a health service body (for which purposes it ceases to be such a body on the termination of that NHS contract);

- (b) paragraph (5), it shall, if it or the PCT has referred any matter to the NHS dispute resolution procedure before it ceases to be a health service body, be bound by the determination of the adjudicator as if the dispute had been referred pursuant to paragraph 29 of Schedule 1 (dispute resolution: non-NHS contracts); or
- (c) paragraph (6), it shall continue to be regarded as a health service body for the purposes of the NHS dispute resolution procedure where that procedure has been commenced—
 - (i) before the termination of the contract; or
 - (ii) after the termination of the contract, whether in connection with or arising out of the termination of the contract or otherwise,

for which purposes it ceases to be such a body on the conclusion of that procedure.