
WELSH STATUTORY INSTRUMENTS

2004 No. 477

**The General Medical Services Transitional and
Consequential Provisions (Wales) Order 2004**

PART 2

ENTITLEMENT TO CONTRACTS

Entitlement to a general medical services contract

2. For the purposes of section 176(2) of the Act, the circumstances in which a Local Health Board must enter into a general medical services contract with a person who, on 31st March 2004, is providing services under section 29 of the 1977 Act (general medical services)(**1**) are those specified in articles 3 to 12.

Entitlement to a general medical services contract as an individual medical practitioner

3.—(1) Subject to paragraphs (3) and (6) and articles 6 and 12, a Local Health Board must, if a person so wishes, enter into a general medical services contract with that person as an individual medical practitioner if—

- (a) on 31st March 2004, or on the date on which the contract is to be signed, if earlier, he or she is included in the medical list of that Local Health Board by virtue of regulation 4(1)(a) of the 1992 Regulations(**2**) and has a list of patients under regulation 19 of those Regulations(**3**);
- (b) on the date on which the contract is to be signed, that person is practising as an individual medical practitioner and no other medical practitioner has been approved by the Local Health Board to be in partnership with him or her under regulation 18A or 18B of the 1992 Regulations(**4**); and
- (c) in the case of a contract which is to be signed after 31st March 2004, he or she is, at the date on which the contract is to be signed, included in a medical performers list.

(2) A person shall be regarded as practising for the purposes of paragraph (1)(b) if he or she would have been so practising on the date in question except for the fact that on that date—

- (a) he or she is suspended from the Medical Register in the circumstances specified in paragraph (4) or from the Local Health Board's medical list or a medical performers list; or

(1) Section 29 was amended by the Health Services Act 1980 (c. 53), section 7, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2, the Medical Act 1983 (c. 54), Schedule 5, paragraph 16(a), the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 18, the Medical (Professional Performance) Act 1995 (c. 51), Schedule, paragraph 28(b), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 8, the 2001 Act, sections 17 and 23, the 2002 Act Schedule 2, paragraph 3 and Schedule 8, paragraph 2 and S.I.s 1985/39 and 2002/3135. It is to be repealed from 1st April by section 175(2) of the 2003 Act.

(2) Regulation 4(1)(a) was amended by S.I. 1998/682 and 2838 and 2002/2469.

(3) Regulation 19 was amended by S.I. 1994/633, 1998/682 and 2002/2469.

(4) Regulations 18A and 18B were substituted by S.I. 1998/2838 and amended by S.I. 2002/554 and 2469.

- (b) the Local Health Board has in place for him or her temporary arrangements under regulation 25(6) of the 1992 Regulations⁽⁵⁾ or contractual arrangements under article 15 which replace such temporary arrangements.
- (3) Where a person is suspended from the Medical Register in the circumstances specified in paragraph (4), or suspended from its medical list or a medical performers list, a Local Health Board shall only be required under paragraph (1) to enter into a general medical services contract with him or her during the period of that suspension if it is satisfied that—
- (a) in the case of a suspension on grounds relating to the practitioner’s physical or mental health, he or she is able to provide (but not perform) services under the contract;
 - (b) having regard to the grounds of suspension, the letting of the contract would not—
 - (i) put at risk the safety of the contractor’s patients, or
 - (ii) be prejudicial to the efficiency of the provision of primary medical services in the area of the Local Health Board; and
 - (c) the practitioner has in place adequate arrangements for the provision of services under the contract during the period of his or her suspension.
- (4) The circumstances referred to in paragraphs (2)(a) and (3) are suspension—
- (a) by the Committee on Professional Performance of the General Medical Council under section 36A (professional performance) or 38(1) (power to order immediate suspension after a finding of professional misconduct or unfitness to practise) of the 1983 Act or under rules made under paragraph 5A(3) of Schedule 4 (proceedings before professional conduct, health and preliminary proceedings committees) to that Act⁽⁶⁾;
 - (b) by the Health Committee of the General Medical Council under section 37 (unfitness to practise through illness etc.)⁽⁷⁾ or 38(1) of the 1983 Act; or
 - (c) under section 41A (interim orders) of the 1983 Act⁽⁸⁾.
- (5) In relation to any suspension which occurs after the coming into force of articles 13 and 14 of the Medical Act 1983 (Amendment) Order 2002⁽⁹⁾, sub-paragraphs (a) and (b) of paragraph (4) shall be read as if they referred to suspension by a Fitness to Practise Panel constituted under Part 3 of Schedule 1 to the 1983 Act in a case relating to deficient professional performance or adverse physical or mental health under—
- (a) section 35D (functions of a fitness to practise panel) of the 1983 Act;
 - (b) section 38(1) (power to order immediate suspension etc after a finding of impairment of fitness to practise) of that Act; or
 - (c) rules made under paragraph 5A(3) of Schedule 4 (proceedings before the investigation committee, interim orders panels, and fitness to practise panels) to that Act.
- (6) A Local Health Board shall not be required under paragraph (1) to enter into a general medical services contract with a person for whom it has in place—
- (a) temporary arrangements under regulation 25(6) of the 1992 Regulations; or
 - (b) contractual arrangements under article 15 which replace such temporary arrangements,
- for so long as those arrangements continue, unless it is satisfied that, at the time the contract is to be signed, he or she is able to provide (but not perform) services under the contract.

(5) Regulation 25(6) was amended by S.I. [2002/2469](#).

(6) Section 36A was inserted by the Medical (Professional Performance) Act 1995 (c. 51), section 1 and amended by S.I. [2000/1803](#); section 38(1) was amended by paragraph 7 of the Schedule to that Act; paragraph 5A was inserted by paragraph 20 of the Schedule to that Act. All three provisions are prospectively substituted by S.I. [2002/3135](#).

(7) Section 37 was amended by the Medical (Professional Performance) Act 1995 (c. 51), Schedule, paragraph 6(2) to (4). It is prospectively substituted by S.I. [2002/3135](#).

(8) Section 41A was inserted by S.I. [2000/1803](#). It is prospectively substituted by S.I. [2002/3135](#)

(9) S.I. [2002/3135](#). This Order substitutes the sections referred to in article 3(5).

(7) Whenever a Local Health Board is considering refusing to enter into a general medical services contract under paragraph (3) or (6), it shall consult the Local Medical Committee (if any) for its area before making its decision and, in a case where it is considering refusal under paragraph (6), it shall have regard to any written report made to it by the Local Medical Committee under regulation 25(9) of the 1992 Regulations⁽¹⁰⁾.

(8) Where a Local Health Board is refusing to enter into a general medical services contract pursuant to paragraph (3) or (6) it shall notify the prospective contractor in writing of its decision, its reasons for that decision and of the practitioner's right of appeal under article 4.

Appeal against refusal of a contract under article 3

4.—(1) A person who has been notified by a Local Health Board under article 3(8) of its refusal to enter into a general medical services contract may appeal to the Assembly by giving notice in writing to the Assembly within a period of 28 days beginning on the day that the Local Health Board notified him or her of the refusal.

(2) A notice of appeal under paragraph (1) shall include—

- (a) the names and addresses of the parties to the dispute;
- (b) a copy of the notification received from the Local Health Board under article 3(8); and
- (c) a brief statement of the grounds for appeal.

(3) The Assembly may determine the appeal himself or, if it considers it appropriate, appoint a person or persons to consider and determine it.

(4) Before reaching a decision as to who should determine the dispute, the Assembly shall, within the period of 7 days beginning with the date on which the notice of appeal was sent to it, send a written request to the parties to make in writing, within a specified period, any representations which they may wish to make about the matter.

(5) The Assembly shall give, with the notice given under paragraph (4), to the Local Health Board which is a party to the appeal, a copy of the notice of appeal.

(6) The Assembly shall give a copy of any representations received from a party to the other party and shall in each case request (in writing) a party to whom a copy of the representations is given to make within a specified period any written observations which it wishes to make on those representations.

(7) Following receipt of any representations from the parties or, if earlier, at the end of the period for making such representations specified in the request sent under paragraph (4) or (6), the Assembly shall, if it decides to appoint a person or persons to consider and determine the dispute—

- (a) inform the parties in writing of the name of the person or persons whom it has appointed; and
- (b) pass to the person or persons so appointed any documents received from the parties under or pursuant to paragraph (2), (4) or (6).

(8) For the purpose of assisting it in its consideration of the matter, the adjudicator may—

- (a) invite representatives of the parties to appear before him or her to make oral representations either together or, with the agreement of the parties, separately, and may in advance provide the parties with a list of matters or questions to which the adjudicator wishes them to give special consideration; or
- (b) consult other persons whose expertise the adjudicator considers will assist him or her in his or her consideration of the matter.

⁽¹⁰⁾ Regulation 25(9) was amended by S.I. [2002/2469](#).

(9) Where the adjudicator consults another person under paragraph (8)(b), he or she shall notify the parties accordingly in writing and, where the adjudicator considers that the interests of any party might be substantially affected by the result of the consultation, he or she shall give to the parties such opportunity as he or she considers reasonable in the circumstances to make observations on those results.

(10) In considering the matter, the adjudicator shall consider —

- (a) any written representations made in response to a request under paragraph (4), but only if they are made within the specified period;
- (b) any written observations made in response to a request under paragraph (6), but only if they are made within the specified period;
- (c) any oral representations made in response to an invitation under paragraph (8)(a);
- (d) the results of any consultation under paragraph (8)(b); and
- (e) any observations made in accordance with an opportunity given under paragraph (9).

(11) In this article, “specified period” means such period as the Assembly shall specify in the request, being not less than 2, nor more than 4, weeks beginning with the date on which the notice referred to is given, but the Assembly may, if it considers that there is good reason for doing so, extend any such period (even after it has expired) and, where it does so, a reference in this article to the specified period is to the period as so extended.

(12) The adjudicator may, when determining the appeal require the Local Health Board to enter into a general medical services contract with the prospective contractor on terms to be agreed between the parties or, where necessary, determined under the pre-contract dispute resolution procedure in section 4(4) of the 1990 Act (NHS contracts) or under regulation 9 of the 2004 Regulations (whichever is applicable) but may not require the prospective contractor to proceed with the contract.

(13) The adjudicator shall record its determination in writing and shall give notice of the determination (including the record of the reasons) to the parties.

(14) The determination of the adjudicator shall be binding upon the parties.

(15) Subject to the other provisions of this article, the adjudicator shall have wide discretion in determining the procedure of the appeal to ensure the just, expeditious, economical and final determination of the dispute.

(16) In this article, “adjudicator” means the Assembly or a person or persons appointed by it under this article or under paragraph 99(5) of Schedule 6 to the 2004 Regulations.

Entitlement to a contract as one of two or more individuals practising in partnership

5. Subject to article 6, a Local Health Board must, if a person so wishes, enter into a general medical services contract with that person as one of two or more individuals practising in partnership if—

- (a) on 31st March 2004, or on the date on which the contract is to be signed, if earlier, he or she is—
 - (i) included in the medical list of the Local Health Board by virtue of regulation 4(1) (a) of the 1992 Regulations, or
 - (ii) a medical practitioner who has been approved by the Local Health Board under regulation 18A or 18B of the 1992 Regulations but whose name has not yet been entered on the medical list of that Local Health Board in accordance with regulation 18F(1) of those Regulations⁽¹¹⁾;

(11) Regulation 18F(1) was substituted by S.I. 1998/2838 and amended by S.I. 2001/3742 and 2002/554 and 2469.

- (b) except in the case of a person who falls within paragraph (a)(ii), he or she is, on the date on which the contract is to be signed, providing general medical services under section 29 of the 1977 Act or services under a default contract —
 - (i) in partnership with one or more other persons who meet the requirements in paragraph (a)(i), or
 - (ii) as an individual medical practitioner with whom another medical practitioner has been approved to be in partnership under regulation 18A or 18B of the 1992 Regulations; and
- (c) he or she wishes to enter into a contract as an individual practising in partnership with one or more medical practitioners who meet the requirements in paragraph (a)(i) and with whom on 31st March 2004, is on the date on which the contract is to be signed, if earlier, he or she was practising in partnership or whose nomination, in relation to the partnership, has been approved by the Local Health Board under regulations 18A or 18B of the 1992 Regulations.

Duration of entitlement to a general medical services contract

6.—(1) Subject to paragraphs (2) to (5), a person who is entitled to enter into a general medical services contract under articles 3 or 5 and who has not entered into such a contract on or before 31st March 2004, shall only continue to be so entitled if —

- (a) he or she has entered into a default contract with the Local Health Board and article 7 does not apply;
- (b) in the case of a person who is entitled to a contract under article 5, that person has remained a party to that default contract up to the date of signing of the general medical services contract; and
- (c) he or she, or, in the case of a person practising in partnership, a partner or partners of that person, has or have signed the general medical services contract—
 - (i) on or before 30th September 2004, or
 - (ii) in a case where the default contract has been extended pursuant to article 14(2), within the period of 28 days from the date on which the parties were notified of determination of the dispute relating to the default contract or, as the case may be, relating to the terms of the general medical services contract or that dispute was withdrawn,

unless article 11 applies.

(2) Where a person has been refused a general medical services contract because the Local Health Board is not satisfied as to the matters specified in article 3(3), that person shall, subject to articles 7 and 12, only continue to be entitled to enter into such a contract (whether following a default contract or not) until—

- (a) the end of the period of six weeks after the suspension which gave rise to that refusal has ended other than in removal from the Medical Register or a medical performers list; or
- (b) in a case where either party has, before the end of the period of six weeks referred to in subparagraph (a), referred the terms of the general medical services contract to the Assembly to consider and determine under section 4(4) of the 1990 Act or regulation 9 of the 2004 Regulations but that dispute has not been determined or withdrawn, the end of the period of 28 days from the date on which the parties were notified of the determination of that dispute or the dispute was withdrawn,

unless article 11 applies.

(3) Where a person has been refused a general medical services contract because the Local Health Board is not satisfied as to the matter specified in article 3(6), and, before 31st March 2005, the Local Health Board is satisfied, after consultation with the Local Medical Committee, that he is able to provide services under a general medical services contract, that person shall, subject to articles 7 and 12, only continue to be entitled to enter into such a contract (whether following a default contract or not) until—

- (a) the end of the period of six weeks after the date on which the Local Health Board was so satisfied; or
- (b) in a case where either party has, before the end of the period of six weeks referred to in subparagraph (a), referred the terms of the general medical services contract to the Assembly to consider and determine under section 4(4) of the 1990 Act or regulation 9 of the 2004 Regulations but that dispute has not been determined or withdrawn, the end of the period of 28 days from the date on which the parties were notified of the determination of that dispute or the dispute was withdrawn,

unless article 11 applies.

(4) Where a person has been refused a general medical services contract because the Local Health Board is not satisfied as to the matter specified in article 3(6), and paragraph (3) does not apply, that person shall, subject to article 12, only continue to be entitled to enter into such a contract until 31st March 2005, unless article 11 applies.

(5) Where a person who is entitled to enter into a general medical services contract under article 3(1) has been unable to do so before 30th September 2004 (whether following a default contract or not) because he or she is performing relevant service, his or her entitlement shall, subject to articles 7 and 14, continue until —

- (a) the end of the period of 6 weeks after the date on which he or she ceased to perform relevant service; or
- (b) in a case where either party has, before the end of the period of six weeks referred to in subparagraph (a), referred the terms of the general medical services contract to the Assembly to consider and determine under section 4(4) of the 1990 Act or regulation 9 of the 2004 Regulations but that dispute has not been determined or withdrawn, the end of the period of 28 days from the date on which the parties were notified of the determination of that dispute or the dispute was withdrawn,

unless article 11 applies.

(6) Nothing in articles 3 and 5 or this article shall require a Local Health Board to enter into a general medical services contract with any person (whether as an individual or as a member of a partnership) on more than one occasion.

Effect of termination of a default contract on entitlement to enter into a general medical services contract under articles 3 or 5

7.—(1) Any entitlement which a person may have under articles 3 or 5 to enter into a general medical services contract with a Local Health Board after 31st March 2004 shall be extinguished if any default contract with that Local Health Board to which he or she was a party (whether as an individual medical practitioner or as one of two or more individuals practising in partnership) has been terminated other than in the circumstances specified in paragraph (2).

(2) The circumstances referred to in paragraph (1) are that the default contract has been terminated by agreement between the parties in order to enable those parties to enter into a general medical services contract.

(3) Where—

- (a) a person has lost his or her entitlement to enter into a general medical services contract under paragraph (1);
- (b) the default contractor has, within 28 days of the date of the notice of termination served on him by the Local Health Board, referred the termination of the default contract to the Assembly to consider and determine under the dispute resolution procedure contained in the default contract; and
- (c) the Assembly has determined that the Local Health Board should not have terminated the default contract,

that person's entitlement to enter into a general medical services contract shall be restored as if the default contract had not been terminated.

(4) A person to whom paragraph (3) applies shall be entitled to exercise his or her entitlement to enter into a general medical services contract until—

- (a) the end of the period of 6 weeks after the date on which he was notified of the Assembly's determination that the Local Health Board should not have terminated the default contract; or
- (b) in a case where either party has, before the end of the period of six weeks referred to in subparagraph (a), referred the terms of the general medical services contract to the Assembly to consider and determine under section 4(4) of the 1990 Act or regulation 9 of the 2004 Regulations but that dispute has not been determined or withdrawn, the end of the period of 28 days from the date on which the parties were notified of the determination of that dispute or the dispute was withdrawn,

unless article 11 applies.

Entitlement to a general medical services contract of persons nominated under regulation 18C of the 1992 Regulations

8.—(1) Where, on 31st March 2004, a Local Health Board has nominated a medical practitioner for a vacancy under regulation 18C of the 1992 Regulations but has not yet entered his or her name on its medical list in accordance with regulation 18F(1) of those Regulations, that person shall, unless a medical practitioner who was not nominated for that vacancy makes a successful appeal under article 9—

- (a) be added to the medical performers list of the Local Health Board, unless he or she is already on the medical performers list of another Local Health Board and is not withdrawing from that list; and
- (b) subject to paragraph (2), be entitled to enter into a general medical services contract as an individual medical practitioner from—
 - (i) 31st March 2004,
 - (ii) expiry of the period for bringing an appeal pursuant to article 9, or
 - (iii) final determination or withdrawal of any appeal dealt with under article 9,whichever is the later.

(2) A person who is entitled to enter into a general medical services contract under paragraph (1) shall, subject to article 12, only continue to be so entitled—

- (a) until 30th June 2004; or
- (b) in a case where an appeal falls to be dealt with under article 9, until the end of the period of six weeks after the final determination or withdrawal of that appeal,

unless article 11 applies.

Appeals under 18G and 18GG of the 1992 regulations

9.—(1) Where, on 31st March 2004, a Local Health Board has decided not to nominate an applicant for a vacancy under regulation 18C of the 1992 Regulations but it has not notified the applicant in writing of its decision, in accordance with paragraph (6) of that regulation, it shall so notify the applicant within seven days of the date on which it made its decision and any right of appeal which the applicant would have had under regulation 18G or 18GG of the 1992 Regulations⁽¹²⁾ shall continue as if those regulations had not been revoked.

(2) Where—

(a) an applicant for a vacancy under regulation 18C of the 1992 Regulations—

(i) has been notified on or before 31st March 2004 that the Local Health Board has not nominated the applicant for the vacancy, or

(ii) is so notified under paragraph (1); and

(b) the applicant has (or, under paragraph (1), is deemed to have) a right of appeal under regulations 18G or 18GG of the 1992 Regulations and the time for appealing has not yet expired,

the time for appealing shall continue as if those regulations had not been revoked.

(3) Where an unsuccessful applicant for a vacancy under regulation 18C of the 1992 Regulations—

(a) has, on or before 31st March 2004, given notice of appeal to the FHSAA under regulation 18G or 18GG of the 1992 Regulations but that appeal has not yet been determined; or

(b) has given notice of such an appeal after 31st March 2004 pursuant to paragraph (2),

that appeal shall continue to be dealt with as if regulation 18G or, as the case may be, 18GG of the 1992 Regulations had not been revoked.

Entitlement to a general medical services contract following appeal under article 9

10.—(1) Where, following an appeal dealt with under article 9, the FHSAA determines that a medical practitioner who was the only applicant for a vacancy under regulation 18C of the 1992 Regulations should have been nominated for that vacancy by the Local Health Board, that medical practitioner shall—

(a) be added to the medical performers list of the Local Health Board, unless he or she is already on the medical performers list of another Local Health Board and is not withdrawing from that list; and

(b) subject to paragraph (2), be entitled to enter into a general medical services contract with the Local Health Board as an individual medical practitioner.

(2) A person who is entitled to enter into a general medical services contract under paragraph (1) shall, subject to article 12, only continue to be so entitled until—

(a) the end of the period of six weeks after receiving notice of the success of his or her appeal; or

(b) in a case where either party has, before the end of the period of six weeks referred to in subparagraph (a), referred the terms of the general medical services contract to the Secretary of State to consider and determine under section 4(4) of the 1990 Act or regulation 9 of the 2004 Regulations but that dispute has not been determined or withdrawn, the end of

(12) Regulation 18G was substituted by S.I. 1998/2838 and amended by S.I. 2001/3742 and 2002/554 and 2469; regulation 18GG was inserted by S.I. 2001/3742 and amended by S.I. 2002/2469.

the period of 28 days from the date on which the parties were notified of the determination of that dispute or the dispute was withdrawn,
unless article 11 applies.

Appeal against failure of a Local Health Board to enter into a general medical services contract

11.—(1) This article applies where a medical practitioner has—

- (a) offered to enter into a general medical services contract under article 3, 5, 7, 8 or 10; and
- (b) as a result of a failure to act by the Local Health Board, been unable to sign such a contract before his or her entitlement to enter into such a contract expires pursuant to article 6, 7(4), 8(2) or 10(2).

(2) In a case to which this article applies, the prospective contractor must, if he or she wishes to enter into a general medical services contract, apply in writing to the Assembly within the period of 14 days of the expiry of his or her entitlement.

(3) An application under paragraph (2) shall specify—

- (a) the names and addresses of the parties to the dispute;
- (b) the grounds on which the applicant claims to be entitled to enter into a general medical services contract; and
- (c) the grounds for alleging default by the Local Health Board.

(4) Paragraphs (3) to (16) of article 4 shall apply to an application made under paragraph (2), subject to the modification that the references in paragraphs (4) and (5) of that article to a notice of appeal shall be read as references to an application under paragraph (2) of this article.

Effect of events taking place after 31st March 2004 on entitlement to enter into a general medical services contract

12. Where an individual medical practitioner who is entitled to enter into a general medical services contract after 31st March 2004 under article 3, 8 or 10 has not entered into a default contract with a Local Health Board, the medical practitioner's entitlement to enter into a general medical services contract with that Local Health Board shall be extinguished if, after 31st March 2004, he or she falls within paragraph 111(2) of Schedule 6 to the 2004 Regulations unless—

- (a) the Local Health Board is satisfied of the matters in sub-paragraphs (3) or (5) of that paragraph; or
- (b) he or she falls within sub-paragraph (2)(d) of that Schedule and the period specified in sub-paragraph (4) of that Schedule has not expired.

Entitlement to a contract under section 176(3) of the Act

13.—(1) For the purposes of section 176(3) of the Act, the circumstances in which a Local Health Board must enter into a contract for the provision of medical services (in this Order referred to as a default contract) are those set out in this article.

(2) Subject to paragraphs (5) and (6), a Local Health Board must, if a person so wishes, enter into a default contract with that person as an individual medical practitioner if that person—

- (a) is, on 31st March 2004, entitled to enter into a general medical services contract under article 3(1); and
- (b) on or before 31st March 2004—

- (i) has not entered into a general medical services contract with that Local Health Board as an individual medical practitioner or as one of two or more individuals practising in partnership, or
 - (ii) is not a legal and beneficial shareholder in a company which has entered into such a contract with that Local Health Board.
- (3) A Local Health Board must, if a person so wishes, enter into a default contract with him or her as one of two or more individuals practising in partnership if that person—
- (a) is, on 31st March 2004, entitled to enter into a general medical services contract under article 5; and
 - (b) on or before 31st March 2004—
 - (i) has not entered into a general medical services contract with that Local Health Board as an individual medical practitioner or one of two or more individuals practising in partnership, or
 - (ii) is not a legal and beneficial shareholder in a company which has entered into such a contract with that Local Health Board.
- (4) A contract entered into pursuant to paragraph (2) or (3) must—
- (a) commence on 1st April 2004 or within 14 days of determination of an appeal under paragraph (9); and
 - (b) be on the terms set out, or agreed in accordance with any options set out, in the Default Contract 2004(13).
- (5) A Local Health Board shall only be required to enter into a default contract under paragraph (2) with a person for whom, on 31st March 2004 (or on the date on which the contract is to be signed if earlier) it has in place temporary arrangements under regulation 25(6) of the 1992 Regulations(14), if it is satisfied, on the date that the contract is to be signed, that he or she is able to provide (but not perform) services under the contract.
- (6) A Local Health Board shall only be required to enter into a default contract under paragraph (2) with a person who is, on 31st March 2004 (or on the date on which the contract is to be signed if earlier) suspended from the Medical Register in the circumstances specified in article 3(4) or suspended from its medical list, if it is satisfied, on the date that the contract is to be signed, that —
- (a) in the case of a suspension on grounds relating to the practitioner’s physical or mental health, he or she is able to provide (but not perform) services under the contract;
 - (b) having regard to the grounds of suspension, the letting of the contract would not—
 - (i) put at risk the safety of the contractor’s patients, or
 - (ii) be prejudicial to the efficiency of the provision of primary medical services in the area of the Local Health Board; and
 - (c) the practitioner has in place adequate arrangements for the provision of services under the contract during the period of his suspension.
- (7) Whenever a Local Health Board is considering refusing to enter into a default contract under paragraph (5) or (6) it shall consult the Local Medical Committee (if any) for its area before making its decision.
- (8) Where a Local Health Board is refusing to enter into a default contract pursuant to paragraph (5) or (6) it shall notify the prospective contractor in writing of its decision, its reasons for that decision and of the practitioner’s right of appeal.

(13) The Default Contract 2004 is published by the Department of Health. It is available on their web site at www.dh.gov.uk or a copy can be obtained by writing to the Department of Health, P.O. Box 777, London SE1 6XH.

(14) Regulation 25(6) was amended by S.I. [2002/2469](#).

(9) Article 4 (appeal against refusal of a contract) shall apply to a refusal of a default contract by a Local Health Board under this article subject to the modifications that—

- (a) the references to notification under article 3(8) in paragraphs (1) and (2) shall be read as references to notification under paragraph (8) of this article; and
- (b) the reference to a general medical services contract in paragraph (12) shall be read as a reference to a default contract.

Duration of a default contract

14.—(1) A default contract entered into pursuant to article 13 shall not subsist beyond 30th September 2004, except in the circumstances specified in paragraphs (2) to (5).

(2) Where, on 30th September 2004—

- (a) any dispute arising out of or in connection with the default contract has been referred to the Assembly in accordance with the dispute resolution procedure contained in the contract but that dispute has not been determined or withdrawn; or
- (b) either party to the default contract has referred the terms of their proposed general medical services contract to the Assembly to consider and determine under section 4(4) of the 1990 Act or regulation 9 of the 2004 Regulations but that dispute has not been determined or withdrawn,

the default contract shall, unless it is terminated before that date in accordance with the terms of the default contract, continue until whichever is the later of the dates specified in paragraph (3).

(3) The dates referred to in paragraph (2) are—

- (a) the end of the period of 28 days from the date on which the parties were notified of determination of the dispute relating to the default contract or that dispute was withdrawn; or
- (b) the end of the period of 28 days from the date on which the parties were notified of determination of the dispute relating to the terms of the general medical services contract or that dispute was withdrawn.

(4) Where the default contract is with an individual medical practitioner—

- (a) with whom the Local Health Board has refused to enter into a general medical services contract because it is not satisfied as to the matters specified in article 3(3) or (6); or
- (b) who has been unable to enter into a general medical services contract on or before 30th September 2004 because he was performing relevant service,

the default contract shall, unless it is terminated before that date in accordance with the terms of the contract, continue for as long as he remains entitled to enter into a general medical services contract under article 6.

(5) Where the default contract is with a medical practitioner who has made an application under article 11 (appeal against failure of a Local Health Board to enter into a general medical services contract), the default contract shall, unless it is terminated before that date in accordance with the terms of the contract, continue until—

- (i) the end of the period of 14 days after that application has been determined, or
- (ii) if the application was successful and he or she intends to enter into a general medical services contract, the end of the day immediately before the day on which he or she is required to start providing services under the general medical services contract which he or she has entered into with the Local Health Board.