

SCHEDULE 5

OTHER CONTRACTUAL TERMS

PART 8

Variation and Termination of Contracts

Termination and the NHS dispute resolution procedure

107.—(1) Where the Health Board is entitled to serve written notice on the contractor terminating the contract pursuant to paragraph 100, 101, 102 or 103(4) or (6) the Health Board shall, in the notice served on the contractor pursuant to those provisions, specify a date on which the contract terminates that is not less than 28 days after the date on which the Health Board has served that notice on the contractor unless sub-paragraph (2) applies.

(2) This sub-paragraph applies if the Health Board is satisfied that a period less than 28 days is necessary in order to—

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

(3) In a case falling within sub-paragraph (1), where the exceptions in sub-paragraph (2) do not apply, where the contractor invokes the NHS dispute resolution procedure before the end of the period of notice referred to in sub-paragraph (1), and it notifies the Health Board in writing that it has done so, the contract shall not terminate at the end of the notice period but instead shall only terminate in the circumstances specified in sub-paragraph (4).

(4) The contract shall only terminate if and when—

- (a) there has been a determination of the dispute pursuant to paragraph 92 and that determination permits the Health Board to terminate the contract; or
- (b) the contractor ceases to pursue the NHS dispute resolution procedure,

whichever is the sooner.

(5) If the Health Board is satisfied that it is necessary to impose the contract sanction before the NHS dispute resolution procedure is concluded in order to—

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

sub-paragraphs (3) and (4) shall not apply and the Health Board shall be entitled to confirm, by written notice to be served on the contractor, that the contract will nevertheless terminate at the end of the period of the notice it served pursuant to paragraph 100, 101, 102, 103(4) or (6) or 104.