

SCHEDULE 6

OTHER CONTRACTUAL TERMS

PART 8

VARIATION AND TERMINATION OF CONTRACTS

Contract sanctions and the dispute resolution procedure

109.—(1) If there is a dispute between the Health Board and the contractor in relation to a contract sanction that the Health Board is proposing to impose, the Health Board must not, subject to sub-paragraph (4), impose the proposed contract sanction except in the circumstances specified in sub-paragraph (2)^{F1}....

(2) If the contractor refers the dispute relating to the contract sanction to the local dispute resolution process within 28 days beginning on the date on which the Health Board served notice on the contractor in accordance with paragraph 108(4) (or such longer period as may be agreed in writing with the Health Board), and notifies the Health Board in writing that it has done so, the Health Board must not impose the contract sanction unless—

- (a) there has been a resolution of the dispute between the parties which allows the Scottish Ministers to impose the contract sanction;
- (b) there has been no resolution of the dispute between the parties as a result of the local dispute resolution process and the contractor does not refer the matter to the Scottish Ministers under paragraph [F290 or 91] within 28 days of the end of the period specified in—
 - (i) paragraph 89(8); or
 - (ii) the date on which the local dispute resolution process was completed,whichever is the earlier; or
- (c) either party refers the matter to the Scottish Ministers under paragraph 90 or 91 within the period specified in sub-paragraph (b) and either—
 - (i) there has been a determination of the dispute pursuant to paragraph 92 and that determination permits the Health Board to impose the contract sanction; or
 - (ii) the contractor ceases to pursue the NHS dispute resolution procedure.

(3) If the contractor does not invoke the NHS dispute resolution procedure within the time specified in sub-paragraph (2), the Health Board is entitled to impose the contract sanction with immediate effect.

(4) If the Health Board is satisfied that it is necessary to impose the contract sanction before the local dispute resolution process or 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,

the Health Board is entitled to impose the contract sanction with immediate effect, pending the outcome of that procedure.

F1 Words in sch. 6 para. 109(1) omitted (1.4.2018) by virtue of The National Health Service (General Medical Services Contracts and Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2018 (S.S.I. 2018/94), regs. 1, 7(p)(i)

Changes to legislation: *There are currently no known outstanding effects for the The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018, Paragraph 109. (See end of Document for details)*

F2 Words in sch. 6 para. 109(2)(b) substituted (1.4.2018) by The National Health Service (General Medical Services Contracts and Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2018 (S.S.I. 2018/94), regs. 1, **7(p)(ii)**

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