

SCHEDULE 1

CONTENT OF AGREEMENTS

PART 8

VARIATION AND TERMINATION OF AGREEMENTS

Agreement sanctions

71.—(1) In this paragraph and paragraph 72, “agreement sanction” means—

- (a) the termination of specified obligations under the agreement;
- (b) the suspension of specified obligations under the agreement for a period of up to six months; or
- (c) the withholding or deducting of monies otherwise payable under the agreement.

(2) Where the Health Board is entitled to terminate the agreement with the provider or with a party to the agreement pursuant to paragraph 65, 66, 67, 68(4) or (6), 69 or 70 it may instead impose any of the agreement sanctions if the Health Board is reasonably satisfied that the agreement sanction to be imposed is appropriate and proportionate to the circumstances giving rise to the Health Board’s entitlement to terminate the agreement.

(3) Where the agreement includes the provision of essential services, the Health Board shall not, under sub-paragraph (2), be entitled to impose any agreement sanction that has the effect of terminating or suspending any obligation to provide, or any obligation that relates to, essential services.

(4) If the Health Board decides to impose an agreement sanction, it must notify the provider of the agreement sanction that it proposes to impose, the date upon which that sanction will be imposed and provide in that notice an explanation of the effect of the imposition of that sanction.

(5) Subject to paragraph 72 the Health Board shall not impose the agreement sanction until at least 28 days after it has served notice on the provider pursuant to sub-paragraph (4) unless the Health Board is satisfied that it is necessary to do so in order to—

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

(6) Where the Health Board imposes an agreement sanction, the Health Board shall be entitled to charge the provider the reasonable costs of additional administration that the Health Board has incurred in order to impose, or as a result of imposing, the agreement sanction.