

SCHEDULE 1

CONTENT OF AGREEMENTS

PART 8

VARIATION AND TERMINATION OF AGREEMENTS

Other grounds for termination by the Health Board for agreements entered into on or after 22nd December 2010

69.—(1) In the case of agreements entered into on or after 22nd December 2010, the Health Board may serve notice in writing on a party to the agreement terminating the agreement with the party with immediate effect, or from such date as may be specified in the notice, if—

- (a) in the case of an agreement with an individual, that individual;
- (b) in the case of an agreement with a partnership, any partner or the partnership;
- (c) in the case of an agreement with a limited liability partnership, any member or the limited liability partnership; and
- (d) in the case of an agreement with a company—
 - (i) the company;
 - (ii) any member of the company; or
 - (iii) any director or secretary of the company,

falls within sub-paragraph (2) during the existence of the agreement.

- (2) A person falls within this sub-paragraph if—
 - (a) subject to sub-paragraph (3), the person does not satisfy the requirements of section 17CA(1), (2) or (3) of the Act⁽¹⁾;
 - (b) the person has been disqualified;
 - (c) subject to sub-paragraph (5), the person is disqualified or suspended from practising by any licensing body anywhere in the world (other than by—
 - (i) a direction under section 32A(2) (applications for interim suspension) or 32B(1) (suspension pending appeal) of the Act;
 - (ii) a Health Board in terms of regulation 8A of the National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004; or
 - (iii) any provision in force in England, Wales or Northern Ireland corresponding to the provisions referred to in sub-heads (i) and (ii));
 - (d) subject to sub-paragraph (6), the person has been dismissed (otherwise than by reason of redundancy) from any employment by a health service body unless before the Health Board has served a notice terminating the agreement pursuant to this paragraph, the person is employed by the health service body that dismissed the person or by another health service body;
 - (e) the person is disqualified from a list unless the person's name has subsequently been included in such a list;
 - (f) the person has been convicted in the United Kingdom of murder;

(1) Section 17CA was inserted by section 38 of the Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3).

Changes to legislation: *There are currently no known outstanding effects for the The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018, Paragraph 69. (See end of Document for details)*

- (g) the person has been convicted in the United Kingdom of a criminal offence, other than of murder, and has been sentenced to a term of imprisonment of over six months;
- (h) subject to sub-paragraph (7), the person has been convicted elsewhere of an offence—
 - (i) which would, if committed in Scotland, constitute murder; or
 - (ii) constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six months;
- (i) the person has been convicted of an offence referred to in schedule 1 of the Criminal Procedure (Scotland) Act 1995 (offences against children under the age of 17 to which special provisions apply) or schedule 1 of the Children and Young Persons Act 1933 (offences against children and young persons with respect to which special provisions apply);
- (j) the person has—
 - (i) had sequestration of the person's estate awarded or been adjudged bankrupt unless (in either case) the person has been discharged or the bankruptcy order has been annulled,
 - (ii) been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under schedule 4A of the Insolvency Act 1986 or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985, or sections 155 to 160 of the Bankruptcy (Scotland) Act 2016, unless that order has ceased to have effect or has been annulled,
 - (iii) made a composition or arrangement with, or granted a trust deed for, the person's creditors unless the person has been discharged in respect of it, or
 - (iv) been wound up under Part IV of the Insolvency Act 1986;
- (k) there is—
 - (i) an administrator, administrative receiver or receiver appointed in respect of it; or
 - (ii) an administration order made in respect of it under schedule B1 of the Insolvency Act 1986;
- (l) that person is a partnership or limited liability partnership and—
 - (i) a dissolution of the partnership or limited liability partnership is ordered by any competent court, tribunal or arbitrator; or
 - (ii) an event happens that makes it unlawful for the business of the partnership or limited liability partnership to continue, or for members of the partnership or limited liability partnership to carry on in partnership or limited liability partnership;
- (m) the person has been—
 - (i) removed under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (powers of the Court of Session), from being concerned in the management or control of any body; or
 - (ii) removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission for England and Wales or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which the person was responsible or to which the person was privy, or which the person by the person's conduct contributed to or facilitated;
- (n) the person is subject to a disqualification order under the company Directors Disqualification Act 1986, the Company Directors Disqualification (Northern Ireland) Order 2002 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order);^{F1}...

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- (o) the person has refused to comply with a request by the Health Board for that person to be medically examined on the grounds that the Health Board is concerned that the person is incapable of adequately providing services under the agreement and, in a case where the agreement is with a partnership, limited liability partnership or a company, the Health Board is not satisfied that the partnership, limited liability partnership or company is taking adequate steps to deal with the matter; or
 - (p) the person would otherwise fall within paragraph 67(3)(e) of schedule 3 of the National Health Service (General Medical Services Contracts) Regulations 2015.
- (3) Subject to sub-paragraph (4), a Health Board may not terminate the agreement pursuant to sub-paragraph (2)(a) where—
- (a) a party to the agreement who is an individual;
 - (b) in the case of a party to an agreement which is a partnership, a partner;
 - (c) in the case of a party to an agreement which is a limited liability partnership, a member; or
 - (d) in the case of a party to an agreement which is a company, a member of the company, after having entered into an agreement (“the relevant agreement”), retires and is therefore not performing or is not engaged in the provision of primary medical services, in accordance with regulation 5.
- (4) Sub-paragraph (3) only applies for the period of time following the date of retirement, which is the equivalent to the length of time that the relevant person referred to in sub-paragraph (3)(a), (b), (c) or (d) has performed or been engaged in the provision of primary medical services for the purposes of the relevant agreement, up to a maximum period of 2 years following the date of retirement.
- (5) A Health Board may not terminate the agreement pursuant to sub-paragraph (2)(c) where the Health Board is satisfied that the disqualification or suspension imposed by a licensing body outside the United Kingdom does not make the person unsuitable to be—
- (a) a party to the agreement;
 - (b) in the case where the person is a partner in a partnership that is a party to the agreement, a partner in that partnership;
 - (c) in the case where the person is a member of a limited liability partnership that is a party to the agreement, a member of that partnership; or
 - (d) in the case where the person is a member, director or secretary of a company that is a party to the agreement—
 - (i) a member of the company; or
 - (ii) a director or secretary of the company, as the case may be.
- (6) A Health Board may not terminate the agreement pursuant to sub-paragraph (2)(d)—
- (a) until a period of at least three months has elapsed since the date of the dismissal of the person concerned; or
 - (b) if, during the period of time specified in sub-paragraph (a), the person concerned brings proceedings in any competent tribunal or court in respect of the person’s dismissal, until proceedings before that tribunal or court are concluded, and the Health Board may only terminate the agreement at the end of the period specified in sub-paragraph (b) if there is no finding of unfair dismissal at the end of those proceedings.
- (7) A Health Board may not terminate the agreement pursuant to sub-paragraph (2)(h) where the Health Board is satisfied that the conviction does not make the person unsuitable to be—
- (a) a party to the agreement;

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- (b) in the case where the person is a partner in a partnership that is a party to the agreement, a partner in that partnership;
- (c) in the case where the person is a member of a limited liability partnership that is a party to the agreement, a member of that limited liability partnership; or
- (d) in the case where the person is a member, director or secretary of a company that is a party to the agreement—
 - (i) a member of the company; or
 - (ii) a director or secretary of the company,

as the case may be.

(8) In this paragraph, “health service body” does not include any person who is to be regarded as a health service body in accordance with regulation 10.

Textual Amendments

- F1** Word in [sch. 1 para. 69\(2\)\(n\)](#) 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, **15(k)**

Changes to legislation:

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