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STATUTORY INSTRUMENTS

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**2005 No. 3361**

**The National Health Service (General  
Dental Services Contracts) Regulations 2005**

**PART 3**

**PRE-CONTRACT DISPUTE RESOLUTION**

**Pre-contract disputes**

**8.**—(1) Subject to paragraphs (2) and (3), if, in the course of negotiations intending to lead to a contract, the prospective contracting parties are unable to agree on a particular term of the contract, either party may refer the dispute to the Secretary of State to consider and determine the matter in accordance with the procedure provided for in paragraphs 55(2) and (3) of Schedule 3.

(2) Paragraph (1) does not apply in the case where both parties to the prospective contract are health service bodies (in which case section 4(4) of the 1990 Act (NHS contracts) applies).

(3) Before referring the dispute for consideration and determination under paragraph (1), both parties to the prospective contract must make every reasonable effort to communicate and co-operate with each other with a view to resolving it.

(4) Disputes referred to the Secretary of State in accordance with paragraph (1), or section 4(4) of the 1990 Act, shall be considered and determined in accordance with the provisions of paragraphs 55(4) to 55(13) and 56(1) of Schedule 3, and paragraph (5) (where it applies) of this regulation.

(5) In the case of a dispute referred to the Secretary of State under paragraph (1), the determination—

- (a) may specify terms to be included in the proposed contract;
- (b) may require [<sup>F1</sup>NHS England] to proceed with the proposed contract, but may not require the proposed contractor to proceed with the proposed contract; and
- (c) shall be binding upon the prospective parties to the contract.

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**Textual Amendments**

**F1** Words in Regulations substituted (6.11.2023) by [The Health and Care Act 2022 \(Further Consequential Amendments\) \(No. 2\) Regulations 2023 \(S.I. 2023/1071\)](#), reg. 1(1), [Sch. para. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service (General Dental Services Contracts) Regulations 2005, PART 3.