

## STATUTORY INSTRUMENTS

# 2005 No. 3361

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

### PART 5

#### CONTRACTS: REQUIRED TERMS

##### Finance

**21.**—(1) [<sup>F1</sup>Subject to [<sup>F2</sup>regulation 24C],] the contract must contain a term which has the effect of requiring—

- (a) [<sup>F3</sup>NHS England] to make payments to the contractor under the contract promptly and in accordance with both the terms of the contract and any other conditions relating to the payment contained in directions given by the Secretary of State under section 28N of the Act <sup>M1</sup> (GDS contracts: payments); and
- (b) the contractor to make payments promptly to [<sup>F3</sup>NHS England] and in accordance with both the terms of the contract and any other conditions relating to payment contained in directions given by the Secretary of State under section 28N of the Act.

(2) The obligation referred to in paragraph (1) is subject to any right [<sup>F3</sup>NHS England] has to set off against an amount payable to the contractor an amount that—

- (a) is owed by the contractor to [<sup>F3</sup>NHS England] under the contract;
- (b) has been paid to the contractor owing to an error or in circumstances when it was not due; or
- (c) [<sup>F3</sup>NHS England] may withhold from the contractor in accordance with the terms of the contract or any other applicable provisions contained in directions given by the Secretary of State under section 28N of the Act.

(3) [<sup>F1</sup>Subject to [<sup>F4</sup>regulation 24C],] the contract must contain a term to the effect that where, pursuant to directions under section 17 <sup>M2</sup> (Secretary of State's directions: exercise of functions) or 28N of the Act, [<sup>F3</sup>NHS England] is required to make a payment to a contractor under a contract but subject to conditions, those conditions are to be a term of the contract.

##### Textual Amendments

- F1** Words in reg. 21(1)(3) substituted (1.11.2015) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2015 \(S.I. 2015/1728\)](#), regs. 1(1), **6**
- F2** Words in reg. 21(1) substituted (1.4.2016) by [The National Health Service \(Primary Dental Services Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **7**
- F3** 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**

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**Changes to legislation:** There are currently no known outstanding effects for the The National Health Service (General Dental Services Contracts) Regulations 2005, Section 21. (See end of Document for details)

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- F4** Words in reg. 21(3) substituted (1.4.2016) by [The National Health Service \(Primary Dental Services Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), 7

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**Marginal Citations**

- M1** Section 28N was inserted into the Act by section 172(1) of the 2003 Act.
- M2** Section 17 of the Act was substituted by the 1999 Act, section 12(1) and amended by the 2001 Act, Schedule 5, paragraph 5(3) and the 2002 Act, Schedule 1, paragraph 7.

**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service (General Dental Services Contracts) Regulations 2005, Section 21.