

SCHEDULE 3

OTHER CONTRACTUAL TERMS

PART 9

VARIATION AND TERMINATION OF AGREEMENTS

Termination by the Relevant Body on grounds of suitability etc

69.—(1) The Relevant Body may serve notice in writing on the contractor terminating the agreement forthwith, or from such date as may be specified in the notice if—

- (a) in the case of an agreement with an individual as a party, that individual;
- (b) in the case of an agreement with a qualifying body—
 - (i) the qualifying body; or
 - (ii) any director, chief executive or secretary of the qualifying body,falls within sub-paragraph (2) during the existence of the agreement.

(2) A person falls within this sub-paragraph if—

- (a) he, she or it is the subject of a national disqualification;
- (b) subject to sub-paragraph (3), he, she or it is disqualified or suspended (other than by an interim suspension order or direction pending an investigation or a suspension on the grounds of ill-health) from practising by any licensing body anywhere in the world;
- (c) subject to sub-paragraph (4), he or she has been dismissed (otherwise than by reason of redundancy) from any employment by a health service body unless before the Relevant Body has served a notice terminating the agreement pursuant to this paragraph, he or she is employed by the health service body that dismissed him or her or by another health service body;
- (d) he, she or it is removed from, or refused admission to, a primary care list by reason of inefficiency, fraud or unsuitability (within the meaning of section 49F(2), (3) and (4) of the Act⁽¹⁾ respectively) unless his or her name has subsequently been included in such a list;
- (e) he or she has been convicted in the United Kingdom of—
 - (i) murder, or
 - (ii) a criminal offence other than murder, committed on or after 26 August 2002, and has been sentenced to a term of imprisonment of over six months;
- (f) subject to sub-paragraph (5), he or she has been convicted outside the United Kingdom of an offence—
 - (i) which would, if committed in England and Wales, constitute murder, or
 - (ii) committed on or after 26 August 2002, which would if committed in England and Wales, constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six months;
- (g) he or she has been convicted of an offence referred to in Schedule 1 to the Children and Young Persons Act 1933⁽²⁾ (offences against children and young persons with respect to which special provisions of this Act apply) or Schedule 1 to the Criminal Procedure

⁽¹⁾ Section 49F was inserted into the Act by section 25 of the 2001 Act and amended by the 2002 Act, Schedule 3, paragraph 21 and the 2003 Act, Schedule 14, Part 2.

⁽²⁾ 1933 c. 12.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006, Paragraph 69. (See end of Document for details)

(Scotland) Act 1995(3) (offences against children under the age of 17 years to which special provisions apply);

- (h) he, she or it has—
- (i) been [^{F1}made] bankrupt or had sequestration of his or her estate awarded [^{F2}or he or she is a person in relation to whom a moratorium period under debt relief order (under Part 7A of the Insolvency Act 1986) applies] unless ^{F3}... he or she has been discharged [^{F4}from the bankruptcy or sequestration] 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 [^{F5}, or a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB,] to the Insolvency Act 1986(4), 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, his, her or its creditors unless he, she or it has been discharged in respect of it, or
 - (iv) been wound up under Part IV of the Insolvency Act 1986;
- (i) 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 to the Insolvency Act 1986(5);
- (j) he or she has been—
- (i) removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he or she was responsible or to which he or she was privy, or which he or she by his or her conduct contributed to or facilitated, or
 - (ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(6) (powers of the Court of Session to deal with management of charities), from being concerned in the management or control of any body;
- (k) he or she is subject to a disqualification order under the Company Directors Disqualification Act 1986(7), the Companies (Northern Ireland) Order 1986(8) or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order); or
- (l) he or she has refused to comply with a request by the Relevant Body for him or her to be medically examined on the ground that it is concerned that he or she is incapable of adequately providing services under the agreement.
- (3) A Relevant Body will not terminate the agreement pursuant to sub-paragraph (2)(b) where it 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 contractor;
 - (b) in the case of an agreement with a qualifying body, a director, chief executive or secretary of the corporation.

(3) 1995 c. 46.

(4) 1986 c. 45. Schedule 4A was inserted by section 257 of, and Schedule 3 to, the Enterprise Act 2002 (c. 40).

(5) Schedule B1 was inserted by section 248 of, and Schedule 16 to, the Enterprise Act 2002.

(6) 1990 c. 40.

(7) 1986 c. 46 as amended by the Insolvency Act 2000 (c. 39).

(8) S.I. 1986/1032 (N.I. 6).

- (4) A Relevant Body will not terminate the agreement pursuant to sub-paragraph (2)(c)—
- (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 paragraph (a), the person concerned brings proceedings in any competent tribunal or court in respect of his or her dismissal, until proceedings before that tribunal or court are concluded,

and the Relevant Body may only terminate the agreement at the end of the period specified in paragraph (b) if there is no finding of unfair dismissal.

(5) A Relevant Body will not terminate the agreement pursuant to sub-paragraph (2)(f) where it is satisfied that the conviction does not make the person unsuitable to be—

- (a) a contractor;
- (b) in the case of an agreement with a qualifying body, a director, chief executive or secretary of that qualifying body.

[^{F6}(6) In this paragraph “health service body” includes a Strategic Health Authority and a Primary Care Trust.]

Textual Amendments

- F1** Word in Sch. 3 para. 69(2)(h)(i) substituted (6.4.2016) by The Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/481), reg. 1, **Sch. 2 para. 13**
- F2** Words in Sch. 3 para. 69(2)(h)(i) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 3 para. 50(3)(a)(i)** (with art. 7)
- F3** Words in Sch. 3 para. 69(2)(h)(i) omitted (1.10.2012) by virtue of The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 3 para. 50(3)(a)(ii)** (with art. 7)
- F4** Words in Sch. 3 para. 69(2)(h)(i) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 3 para. 50(3)(a)(iii)** (with art. 7)
- F5** Words in Sch. 3 para. 69(2)(h)(ii) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 3 para. 50(3)(b)** (with arts. 7, 8)
- F6** Sch. 3 para. 69(6) inserted (1.4.2013) by The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235), art. 1(2), **Sch. 2 para. 95(4)(d)**

Commencement Information

- I1** Sch. 3 para. 69 in force at 1.3.2006, see **reg. 1(1)**

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006, Paragraph 69.