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PROSPECTIVE

SCHEDULE 3

Other contractual terms

PART 11

Variation and termination of contracts

Other grounds for termination by the Local Health Board

119.—(1) The Local Health Board may give notice in writing to a contractor terminating the contract with immediate effect, or from such date as may be specified in the notice, if sub-paragraph (3) applies to the contractor—

- (a) during the existence of a contract, or
 - (b) if later, on or after the date on which a notice in respect of the contractor's compliance with the condition in regulations 5 and 6 was given under paragraph 96(1)(a) or 91(1).
- (2) Sub-paragraph (3) applies—
- (a) where the contract is with a general medical practitioner, to that general medical practitioner,
 - (b) where the contract is with two or more persons practising in partnership, to the partnership or any partner in the partnership, and
 - (c) where the contract is with a company limited by shares to—
 - (i) the company,
 - (ii) any person legally or beneficially owning a share in the company, or
 - (iii) any director or secretary of the company.
- (3) This sub-paragraph applies if—
- (a) the contractor does not satisfy the conditions prescribed in sections 44(2) or (3) of the Act (persons eligible to enter into GMS contracts);
 - (b) the contractor is the subject of a national disqualification;
 - (c) subject to sub-paragraph (4), the contractor has been 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 a licensing body anywhere in the world;
 - (d) subject to sub-paragraph (5), the contractor has been dismissed (otherwise than by reason of redundancy) from employment by a health service body unless, before the Local Health Board has given notice to the contractor terminating the contract under this paragraph, the contractor is employed by the health service body from which the contractor was dismissed or by another health service body;
 - (e) the contractor has been removed from, or refused admission to, a primary care list by reason of inefficiency, fraud or unsuitability (within the meaning of section 107(2), (3) and (4) of the Act respectively) unless the contractor's name has subsequently been included in such a list;
 - (f) the contractor has been convicted in the United Kingdom of murder;

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- (g) the contractor has been convicted in the United Kingdom of a criminal offence other than murder and has been sentenced to a term of imprisonment of longer than 6 months;
- (h) subject to sub-paragraph (6), the contractor has been convicted elsewhere of an offence which would, if it were committed in England and Wales constitute murder, and—
 - (i) the offence was committed on or after 26 August 2002, and
 - (ii) the contractor was sentenced to a term of imprisonment of longer than 6 months;
- (i) the contractor has been convicted of an offence, referred to in Schedule 1 to the Children and Young Persons Act 1933⁽¹⁾ (offences against children and young persons, with respect to special provisions of this Act apply), or in Schedule 1 to the Criminal Procedure (Scotland) Act 1995⁽²⁾ (offences against children under the age of 17 years to which special provisions apply);
- (j) the contractor has at any time been included in—
 - (i) any barred list within the meaning of the Safeguarding Vulnerable Groups Act 2006⁽³⁾, or
 - (ii) any barred list within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007⁽⁴⁾ (barred lists),

unless the contractor was removed from the list either on the grounds that it was not appropriate for the contractor to have been included in it or as the result of a successful appeal;

- (k) the contractor has, within the period of 5 years before the signing of the contract, been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission, the Charity Commission for Northern Ireland or the High Court, and that order was made on the grounds of misconduct or mismanagement in the administration of a charity for which the contractor was responsible or to which the contractor was privy, or which was contributed to, or facilitated by, the contractor's conduct;
- (l) the contractor has, within the period of 5 years before the signing of the contract or commencement of the contract (whichever is earlier), been removed from being concerned with the management or control of a body in any case where removal was by virtue of section 34(5)(e) of the Charities and Trustees Investment (Scotland) Act 2005⁽⁵⁾ (powers of Court of Session); or
- (m) the contractor—
 - (i) has been made bankrupt and has not been discharged from the bankruptcy or the bankruptcy order has not been annulled, or
 - (ii) has had sequestration of the contractor's estate awarded and has not been discharged from the sequestration;
- (n) the contractor is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986⁽⁶⁾ (bankruptcy restrictions order and undertaking), or Schedule 2A to the Insolvency (Northern Ireland) Order 1989⁽⁷⁾ (bankruptcy restrictions order and undertaking) or Part 13 of the Bankruptcy (Scotland) Act 2016⁽⁸⁾ (bankruptcy restrictions orders and interim

(1) 1933 c. 12.

(2) 1995 c. 46.

(3) 2006 c. 47.

(4) S.I. 2007/1351 (N.I. 11).

(5) 2005 asp 10.

(6) 1986 c. 45.

(7) S.I. 1989/2405 (N.I. 19).

(8) 2016 asp 21.

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bankruptcy restrictions orders), unless the contractor has been discharged from that order or that order has been annulled;

- (o) the contractor—
 - (i) is subject to a moratorium period under a debt relief order under Part VIIA of the Insolvency Act 1986 (debt relief orders) applies, or
 - (ii) is the subject of a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to that Act (debt relief restrictions orders and undertakings), unless that order has ceased to have effect or has been annulled;
- (p) the contractor has made a composition agreement or arrangement with, or a trust deed has been granted for, the contractor's creditors and the contractor has not been discharged in respect of it;
- (q) the contractor is a company which has been wound up under Part IV of the Insolvency Act 1986 (winding up of companies registered under the Companies Acts);
- (r) the contractor has had an administrator, administrative receiver or receiver appointed in respect of it;
- (s) the contractor has had an administration order made in respect of the contractor under Schedule B1 to the Insolvency Act 1986 (administration);
- (t) the contractor is a partnership and—
 - (i) the partnership is dissolved by one of the partners, or a dissolution of the 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 to continue, or for members of the partnership to carry on in partnership;
- (u) the contractor is subject to—
 - (i) a disqualification order under section 1 of the Company Directors Disqualification Act 1986⁽⁹⁾ (disqualification orders: general) or a disqualification undertaking under section 1A of that Act (disqualification undertakings: general),
 - (ii) a disqualification order or disqualification undertaking under article 3 (disqualification orders: general) or article 4 (disqualification undertakings: general) of the Company Directors Disqualification (Northern Ireland) Order 2002⁽¹⁰⁾, or
 - (iii) a disqualification order under section 429(2) of the Insolvency Act 1986 (disabilities on revocation of administration order against an individual);
- (v) the contractor has refused to comply with a request by the Local Health Board for the contractor to be medically examined because the Local Health Board is concerned that the contractor is incapable of adequately providing services under the contract and, in a case where the contract is with two or more individuals practising in partnership or with a company, the Local Health Board is satisfied that the contractor is taking adequate steps to deal with the matter; or
- (w) the contractor or its employees or agents (or anyone acting on its or their behalf) commits any prohibited act in relation to the contract with or without the knowledge of the Local Health Board.

(4) The Local Health Board must not terminate the contract under sub-paragraph (3)(c) where the Local 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—

⁽⁹⁾ 1986 c. 46.

⁽¹⁰⁾ S.I. 2002/3150 (N.I. 4).

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- (a) a contractor,
- (b) a partner, in the case of a contract with two or more persons practising in a partnership, or
- (c) in the case of a contract with a company limited by shares—
 - (i) a person legally or beneficially holding a share in the company, or
 - (ii) a director or secretary of the company,as the case may be.

(5) The Local Health Board may not terminate the contract under sub-paragraph (3)(d)—

- (a) until a period of at least 12 weeks has elapsed since the date of the dismissal of the person concerned, or
- (b) if, during the period specified in 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 Local Health Board may only terminate the contract at the end of the period specified in paragraph (b) if there is no finding of unfair dismissal at the end of those proceedings.

(6) The Local Health Board must not terminate the contract under sub-paragraph (3)(h) where the Local Health Board is satisfied that the conviction does not make the person unsuitable to be—

- (a) a contractor,
- (b) a partner, in the case of a contract with two or more persons practising in partnership, or
- (c) in the case of a contract with a company limited by shares—
 - (i) a person legally or beneficially holding a share in the company, or
 - (ii) a director or secretary of the company,as the case may be.

Commencement Information

II Sch. 3 para. 119 in force at 1.10.2023, see [reg. 1\(2\)](#)

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Changes and effects yet to be applied to :

- Sch. 3 para. 119 coming into force by [S.I. 2023/953 reg. 1\(2\)](#)
- Sch. 3 para. 119(3)(v) word inserted by [S.I. 2023/1421 reg. 18\(oo\)\(iii\)\(bb\)](#)
- Sch. 3 para. 119(3)(o)(i) word omitted by [S.I. 2023/1421 reg. 18\(oo\)\(i\)\(bb\)](#)
- Sch. 3 para. 119(3)(o)(i) word substituted by [S.I. 2023/1421 reg. 18\(oo\)\(i\)\(aa\)](#)
- Sch. 3 para. 119(3)(q) word substituted by [S.I. 2023/1421 reg. 18\(oo\)\(ii\)](#)
- Sch. 3 para. 119(3)(v) words inserted by [S.I. 2023/1421 reg. 18\(oo\)\(iii\)\(aa\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 3 para. 16(3) inserted by [S.I. 2023/1421 reg. 18\(b\)](#)
- Sch. 5 para. 2(2)(a)(iv)(aa) omitted by [S.I. 2023/1421 reg. 20\(d\)](#)
- Sch. 5 para. 2(2)(a)(i)(aa) word substituted by [S.I. 2023/1421 reg. 20\(c\)](#)