

Status: This version of this provision is prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The National Health Service (General Medical Services Contracts) (Wales) Regulations 2023. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PROSPECTIVE

SCHEDULE 3

Other contractual terms

PART 11

Variation and termination of contracts

Termination by the Local Health Board: remedial notices and breach notices

122.—(1) Where a contractor has breached the contract other than as specified in paragraphs 117 to 121 and the breach is capable of remedy, the Local Health Board must, before taking any action it is otherwise entitled to take by virtue of the contract, serve a notice on the contractor requiring it to remedy the breach (“remedial notice”).

(2) A remedial notice must specify—

- (a) details of the breach,
- (b) the steps the contractor must take to the satisfaction of the Local Health Board in order to remedy the breach, and
- (c) the period during which the steps must be taken (“the notice period”).

(3) The notice period must, unless the Local Health Board is satisfied that a shorter period is necessary to—

- (a) protect the safety of the contractor’s patients, or
- (b) protect itself from material financial loss,

be no less than 28 days from the date that notice is given.

(4) Where a Local Health Board is satisfied that the contractor has not taken the required steps to remedy the breach by the end of the notice period, the Local Health Board may terminate the contract with effect from such date as the Local Health Board may specify in a further notice to the contractor.

(5) Where a contractor has breached the contract other than as specified in paragraphs 117 to 121 and the breach is not capable of remedy, the Local Health Board may serve notice on the contractor requiring the contractor not to repeat the breach (“breach notice”).

(6) If, following a breach notice or a remedial notice, the contractor—

- (a) repeats the breach that was the subject of the breach notice or the remedial notice, or
- (b) otherwise breaches the contract resulting in either a remedial notice or a further breach notice,

the Local Health Board may serve notice on the contractor terminating the contract with effect from such date as may be specified in that notice.

(7) The Local Health Board must not exercise its right to terminate the contract under subparagraph (6) unless it is satisfied that the cumulative effect of the breaches is such that the Local Health Board considers that to allow the contract to continue would be prejudicial to the efficiency of the services to be provided under the contract.

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(8) If the contractor is in breach of any obligation and a breach notice or a remedial notice in respect of that default has been given to the contractor, the Local Health Board may withhold or deduct monies which would otherwise be payable under the contract in respect of that obligation which is the subject of the default.

Commencement Information

II Sch. 3 para. 122 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. 122 coming into force by [S.I. 2023/953 reg. 1\(2\)](#)

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\(c\)](#)