
STATUTORY INSTRUMENTS

2005 No. 3373

The National Health Service (Personal Dental Services Agreements) Regulations 2005

PART 4

HEALTH SERVICE BODY STATUS

Health service body status

9.—(1) A contractor shall be regarded as a health service body for the purposes of section 4 of the 1990 Act from the date it makes an agreement unless—

- (a) in the case of an agreement with a single individual or qualifying body, that individual or body; or
- (b) in the case of any other agreement, the proposed parties to the agreement (other than the Relevant Body),

object in a written notice served on the Relevant Body at any time prior to the agreement being made.

(2) Where a contractor is to be regarded as a health service body for the purposes of section 4 of the 1990 Act pursuant to paragraph (1), any change in the parties comprising the contractor shall not affect the health service body status of the contractor.

(3) If, pursuant to paragraph (1) or (4), a contractor is to be regarded as a health service body, that fact shall not affect the nature of, or any rights or liabilities arising under, any other agreement or contract with a health service body entered into by that contractor before the date on which the contractor is to be so regarded.

(4) A contractor may at any time request a variation of the agreement to include or remove provision from the agreement that the agreement is an NHS contract, and if it does so—

- (a) the Relevant Body shall agree to the variation; and
- (b) the procedure in paragraph 60(1) of Schedule 3 (variation of a contract: general) shall apply.

(5) Where, pursuant to paragraph (4), the Relevant Body agrees to a variation of the agreement, the contractor shall—

- (a) be regarded; or
- (b) subject to paragraph (7), cease to be regarded,

as a health service body for the purposes of section 4 of the 1990 Act from the date that variation takes effect pursuant to paragraph 60(1) of Schedule 3.

(6) Subject to paragraph (7), a party or parties who were to be regarded as a health service body pursuant to paragraphs (1) or (4), as the case may be, shall cease to be a health service body for the purposes of section 4 of the 1990 Act if the agreement is terminated.

(7) Where a contractor ceases to be a health service body pursuant to—

- (a) paragraph (5) or (6), it shall continue to be regarded as a health service body for the purposes of being a party to any other NHS contract entered into after it became a health service body but before the date on which the contractor ceased to be a health service body (for which purposes it ceases to be such a body on the termination of that NHS contract);
- (b) paragraph (5), it shall, if it or the Relevant Body has referred any matter to the NHS dispute resolution procedure before it ceases to be a health service body, be bound by the determination of the adjudicator as if the dispute had been referred pursuant to paragraph 54 of Schedule 3 (dispute resolution: non-NHS contracts);
- (c) paragraph (6), it shall continue to be regarded as a health service body for the purposes of the NHS dispute resolution procedure where that procedure has been commenced—
 - (i) before the termination of the agreement; or
 - (ii) after the termination of the agreement, whether in connection with, or arising out of, the termination of the agreement or otherwise,for which purposes it ceases to be such a body on the conclusion of that procedure.