
STATUTORY INSTRUMENTS

2010 No. 2484

The Health and Social Care Act 2008 (Primary Dental Services, Private Ambulance Services and Primary Medical Services) (Regulated Activities) (Transitory and Transitional Provisions) Order 2010

PART 2

Provisions relating to activities which are regulated activities with effect from 1st April 2011

Transitional provisions relating to registration subject to conditions

5.—(1) Paragraph (2) applies where, pursuant to section 12 or 15 of the Act (grant or refusal of registration as a service provider or manager) as modified by article 4, the Commission decides to grant a transitional application subject to any condition, other than a registered manager condition required by section 13(1) of the Act, which has not been agreed in writing between it and—

- (a) the applicant, where the condition is to be imposed on the applicant; or
- (b) the person to be registered as a manager, where the condition is to be imposed on that person.

(2) Where this paragraph applies—

- (a) sections 26(2) (notice of proposals) and 28(3), (4), (6) and (7) (notice of decisions) of the Act do not apply; and
- (b) the Commission must follow the procedure set out in the following paragraphs.

(3) The Commission must give the applicant or person to be registered as a manager notice in writing of its decision under paragraph (1) and of the conditions to which the registration is to be made subject.

(4) A notice under paragraph (3) must—

- (a) give the Commission's reasons for its decision; and
- (b) state that within 28 days of service of the notice, the person on whom it was served may make written representations to the Commission concerning any matter which that person wishes to dispute.

(5) In the case of any application which is made—

- (a) where the Commission has given notification under article 2—
 - (i) on or before the application date, and
 - (ii) in such form, and containing or accompanied by such information, as the Commission specified pursuant to article 2; or
- (b) in any other case—

- (i) on or before 31st December 2010, and
- (ii) in such form, and containing or accompanied by such information, as the Commission may require,

the Commission must use its best endeavours to give the notice referred to in paragraph (3) before 1st April 2011.

(6) Within 3 months of receipt of representations from an applicant or a person to be registered as a manager pursuant to paragraph (4)(b), the Commission must give notice in writing—

- (a) confirming the original decision; or
- (b) varying or removing any of the conditions.

(7) Section 32 of the Act (appeals to the Tribunal) applies to the notice referred to in paragraph (6) as it applies to a decision of the Commission under Chapter 2 of Part 1 of the Act.

(8) Notwithstanding the right to make representations under paragraph (4) and the right of appeal to the Tribunal under paragraph (7), any condition set out in a notice under paragraph (3) has effect, unless otherwise specified by the Commission in the notice, from 1st April 2011 or, if later, the date of grant of registration, until such date as—

- (a) the registered person is notified in writing by the Commission of its variation or removal; or
- (b) the Tribunal directs that it is to cease to have effect.

(9) Any removal of a condition set out in a notice under paragraph (6) has effect from the date of the notice.

(10) Notwithstanding the right of appeal to the Tribunal under paragraph (7), any varied condition set out in a notice under paragraph (6) has effect, unless otherwise specified by the Commission in the notice, from 1st April 2011 or, if later, the date of the notice, until such date as—

- (a) the registered person is notified in writing by the Commission of its variation or removal; or
- (b) the Tribunal directs that it is to cease to have effect.

(11) In deciding whether to specify a date from which a condition has effect other than—

- (a) 1st April 2011 or, if later, the date of grant of registration, in a notice under paragraph (3); or
- (b) 1st April 2011 or, if later, the date of the notice, in a notice under paragraph (6) varying any of the conditions,

the Commission must have regard to the need to strike a balance between the desirability of preserving service continuity and the exposure of any person to the risk of harm.