
STATUTORY INSTRUMENTS

2010 No. 807

**The Health and Social Care Act 2008 (Commencement
No.16, Transitory and Transitional Provisions) Order 2010**

PART 3

Transitional and transitory provisions relating to the Care Quality Commission

**Transitional applications where there has been an application for the urgent variation,
removal or imposition of conditions**

12.—(1) Where this article applies, notwithstanding the amendment of sections 1 to 5 of the 2000 Act on 1st October 2010, sections 20 (urgent procedure for cancellation etc) and 21 (appeals to the Tribunal) of the 2000 Act continue to apply until the date specified in paragraph (7).

(2) This article applies where—

(a) an order has been made under section 20 of the 2000 Act to—

- (i) vary or remove a condition, or
- (ii) impose an additional condition; and

(b) either—

- (i) paragraph (3)(a) or (b) applies in respect of that order on a date on which the Commission makes a determination to which that order is relevant, or
- (ii) an order referred to in paragraph (5)(a) or (b) is made at any time after a decision has been made by the Commission to grant a transitional application.

(3) This paragraph applies where—

- (a) the time for making an appeal under section 21 of the 2000 Act has not elapsed and no appeal has been made; or
- (b) an appeal has been made under section 21 of that Act but that appeal has not been determined or abandoned.

(4) Where, at the time a determination falls to be made by the Commission—

- (a) paragraph (3)(a) applies, the Commission must consider that order in making that determination; or
- (b) paragraph (3)(b) applies, the Commission must consider the order and the grounds of appeal in making that determination.

(5) Where, after a decision has been made by the Commission to grant a person's transitional application, an order is made under section 20 of the 2000 Act to—

- (a) vary or remove a condition; or
- (b) impose an additional condition,

in relation to that person's registration under the 2000 Act, the Commission must consider whether it should exercise its powers under section 12(5) or 15(5) of the Act (conditions of registration)

to vary or remove conditions or impose any additional conditions in relation to the person's new registration under the Act.

(6) Where the Tribunal makes, in respect of an order to which this article applies, a decision pursuant to section 21 of the 2000 Act (appeals to the Tribunal), the Commission must, if notice of that decision is sent to it—

- (a) before it makes a determination to which that decision is relevant, reflect that decision in that determination; or
- (b) after it has made a decision to grant a transitional application, consider whether it needs to exercise its powers under section 12(5) or 15(5) of the Act in order to reflect that decision.

(7) The date specified for the purposes of paragraph (1) is the date on which—

- (a) the period referred to in section 21(2) of the 2000 Act expires, if no appeal is made during that time period;
- (b) an appeal made under section 21 of the 2000 Act is abandoned; or
- (c) an appeal made under section 21 of the 2000 Act is determined.