
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

Applications made to the Commission under section 12 of the 2000 Act before 1st July 2010 or 1st August 2010

18.—(1) This article applies where—

- (a) an application is made for registration under section 12 of the 2000 Act (applications for registration) before 6th April 2010 and is not finally determined by that date; or
- (b) an application is made to the Commission for registration under section 12 of that Act on or after 6th April 2010 but before—
 - (i) 1st July 2010 in respect of the carrying on of an establishment or agency, or
 - (ii) 1st August 2010 in respect of the management of an establishment or agency.

(2) In this article, “finally determined” in relation to an application means that it has been granted—

- (a) unconditionally by the Commission;
- (b) subject only to conditions agreed between the Commission and the applicant in writing; or
- (c) subject to conditions that have not been agreed between the Commission and the applicant in writing and—
 - (i) the period referred to in section 21(2) of the 2000 Act (appeals to the Tribunal) has expired and no appeal has been made, or
 - (ii) any appeal made under section 21 of that Act has been determined or abandoned.

(3) As soon as reasonably practicable after an application that comes within paragraph (1) is finally determined, the Commission must send notification of the need to make a transitional application to the person who carries on the registered establishment or agency.

(4) Notification sent pursuant to paragraph (3) must specify—

- (a) the form in which the application must be made;
- (b) what information it must contain or be accompanied by;
- (c) the application date; and
- (d) that the transitional application must be made to the Commission on or before the application date, in the specified form and contain or be accompanied by the specified information, in order for paragraph (6) to continue to apply.

(5) The application date must be a date that is not less than 28 days after the date on which the notification under paragraph (3) is sent.

(6) Section 10(1) of the Act (offence of carrying on a regulated activity while unregistered) does not apply to a person notified pursuant to paragraph (3), to the extent specified in paragraph (7), for the period (if any) beginning on 1st October 2010 and—

- (a) where the condition in paragraph (8) is not met, ending on the application date; or
- (b) where the condition in paragraph (8) is met, ending on the date of service by the Commission under section 28(1) of the Act (notice of decisions) or article 7(3) of a notice of decision in respect of the transitional application.

(7) Section 10(1) of the Act does not apply in respect of the regulated activities for which that person—

- (a) is entitled to seek registration in a transitional application during the period specified in paragraph (6); and
- (b) has sought registration in the transitional application during the time period specified in paragraph (6)(b).

(8) The condition referred to in paragraph (6)(b) is that a transitional application has been made to the Commission, in the form specified by the Commission and containing or accompanied by such information as the Commission specified, on or before the application date.