
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

Suspension of the offence of carrying on a regulated activity while unregistered

9.—(1) Paragraph (2) applies where a person who is notified pursuant to article 3(1) makes a transitional application on or before the application date in accordance with article 5, and that application is made in such form, and contains or is accompanied by such information, as the Commission specified pursuant to article 3(3).

(2) Section 10(1) of the Act (offence of carrying on a regulated activity while unregistered) does not apply to a person mentioned in paragraph (1), in respect of a regulated activity for which that person has sought registration in the transitional application, for the period (if any) beginning on 1st October 2010 and 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.

(3) Paragraph (4) applies where—

- (a) a person, other than a person specified in paragraph (1), has made a transitional application in respect of a regulated activity; and
- (b) the Commission proposes to refuse that application and serves a notice of proposal pursuant to section 26(3) of the Act (notice of proposal relating to refusal of registration).

(4) Section 10(1) of the Act does not apply to the person in respect of the regulated activity for the period beginning on the date of service of the notice of proposal and ending on the date of service by the Commission under section 28 of the Act of a notice of decision in respect of the proposal to refuse registration or, if later, the date that the decision takes effect.

(5) Paragraph (6) applies where—

- (a) a person who is notified pursuant to article 3(1) makes a transitional application on or before the application date in accordance with article 5, and that application is made in such form, and contains or is accompanied by such information, as the Commission specified pursuant to article 3(3);
- (b) the Commission decides to grant registration in respect of the carrying on of a regulated activity;
- (c) that registration is subject to a registered manager condition pursuant to regulation 5 of the Registration Regulations (registered manager condition); and
- (d) the transitional application included an application pursuant to article 5 of this Order, on behalf of a person proposing to manage that regulated activity.

(6) Section 33 of the Act (offence of failure to comply with conditions) does not apply to the person who made the application coming within paragraph (5)(a) in respect of a failure to comply

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with a registered manager condition in relation to that registration for the period (if any) beginning on 1st October 2010 and ending on the date of service by the Commission under section 28(1) of the Act (notice of decisions) of a notice of decision in respect of that application insofar as made on behalf of a person to be registered as a manager.