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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 162**

**The Regulation of Care (Scotland) Act 2001 (Commencement  
No. 2 and Transitional Provisions) Order 2002**

**Notices and applications under the 1989 Act**

12.—(1) This article applies—

- (a) where a person provides a care service which is—
  - (i) a child care agency to which article 4(6) applies;
  - (ii) child minding to which article 4(9) applies; or
  - (iii) day care of children to which article 4(10)(a) applies;
- (b) where the local authority with which the person was immediately before the commencement date registered as a child minder or (as the case may be) a provider of day care for children had—
  - (i) sent that person notice of its intention to take a step specified in section 77(1)(b) or (d) of the 1989 Act; or
  - (ii) applied to the court for an order under section 75 of that Act; and
- (c) that step had not taken effect, or that order had not been made, before that date.

(2) Where this article applies—

- (a) the 1989 Act shall continue in force for the purpose of determining whether the step is to be taken or (as the case may be) the order is to be made;
- (b) where a requirement is imposed, removed or varied as provided for by this paragraph it shall, so far as it is capable of being a condition to which registration under the Act is subject, have effect in relation to the care service to which paragraph (1) applies from the date on which it was imposed, removed or varied as the case may be as if it were a condition which was specified in a condition notice issued under section 13 of the Act and the period of 14 days referred to in section 16 of the Act has elapsed on that date without written representations having been made as provided for in that section; and
- (c) where the person's registration is cancelled, registration under the Act by virtue of this Order of the care service to which paragraph (1) applies shall cease to have effect.

(3) Where a person to whom paragraph (1)(a) applies has before the commencement date applied to the local authority specified in paragraph (1)(b) to vary or remove a requirement under section 72 or section 73 of the 1989 Act and the local authority has not by that date given notice under section 77(1)(e) of that Act, the application shall be treated as an application to the Commission for variation or (as the case may be) removal of a condition which was made in accordance with the requirements of section 14 of the Act.