

2006 No. 275 (C.26)

SOCIAL CARE

**The Regulation of Care (Scotland) Act 2001 (Commencement
No. 7 and Transitional Provisions) Order 2006**

Made - - - -

19th May 2006

The Scottish Ministers, in exercise of the powers conferred by sections 81(2) to (4) of the Regulation of Care (Scotland) Act 2001^(a), hereby make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Regulation of Care (Scotland) Act 2001 (Commencement No. 7 and Transitional Provisions) Order 2006.

(2) In this Order “the Act” means the Regulation of Care (Scotland) Act 2001.

Commencement of provisions

2. Section 2(1)(k) and (16) of the Act shall come into force on 20th June 2006.

Transitional provisions

3.—(1) Subject to paragraphs (2) and (3), where immediately before 20th June 2006 a person was providing an adult placement service and continues to provide that service on that date, the service shall be treated for all purposes as if it had been registered under Part 1 of the Act on that date.

(2) Subject to paragraph (3), the service ceases to be treated as registered by virtue of paragraph (1)–

- (a) where the person providing the service has before 19th March 2007 made an application for registration of the service under section 7(1) of the Act (applications for registration), on 19th December 2007; or
- (b) in any other case, on 19th March 2007.

(3) The service ceases to be treated as registered by virtue of paragraph (1) before 19th December 2007 or, as the case may be, 19th March 2007 as mentioned in paragraph 2(a) or (b) on whichever of the following first occurs–

- (a) where an application for registration of the service is made and the Commission grants the application, the date on which it does so;
- (b) where an application for registration of the service is made but the Commission decides to refuse the application and–
 - (i) no appeal is made under section 20(1) of the Act (appeal against decision to implement a proposal) against the decision, the fifteenth day after the day on which

(a) 2001 asp 8.

- notice of the decision is given under section 17(3) of the Act (notice of decision to implement a proposal in relation to which it has given a person a condition notice or a notice under section 15 of the Act);
- (ii) such an appeal is made timeously and the sheriff confirms the decision, the day on which the sheriff does so; or
 - (iii) such an appeal is made timeously but is abandoned, the day on which abandonment of the appeal is intimated to the sheriff clerk, or if abandonment is not so intimated the day on which the sheriff deems the appeal to have been abandoned;
- (c) where the Commission decides (other than in accordance with an application under section 14(1)(b) of the Act (application for cancellation of the registration)) to cancel the registration of the service effected by virtue of paragraph (1) and—
- (i) no appeal is made under section 20(1) of the Act against the decision, the fifteenth day after the day on which notice of the decision is given under section 17(3) of the Act;
 - (ii) such an appeal is made timeously and the sheriff confirms the decision, the day on which the sheriff does so; or
 - (iii) such an appeal is made timeously but is abandoned, the day on which abandonment of the appeal is intimated to the sheriff clerk, or if abandonment is not so intimated the day on which the sheriff deems the appeal to have been abandoned;
- (d) where the sheriff grants an application by the Commission under section 18 of the Act (urgent procedures for cancellation of registration, etc.) for cancellation of the registration of the service effected by virtue of paragraph (1), the day on which the sheriff does so; or
- (e) on the day on which the person ceases to provide the service.

LEWIS MACDONALD
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
19th May 2006

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force section 2(1)(k) and (16) of the Regulation of Care (Scotland) Act 2001 (2001 asp 8) (“the Act”) on 20th June 2006 (article 2). Section 2(16) of the Act contains the definition of “adult placement service” and section 2(1)(k) of the Act provides that an adult placement service is a care service within the meaning of the Act.

The Order also makes transitional provisions. Persons providing an adult placement service immediately before 20th June 2006 are deemed to have registered the service under Part 1 of the Act (article 3(1)). Article 3(2) provides that, subject to article 3(3), the deemed registration will cease—

- where the person providing the service has applied before 19th March 2007 for registration under the Act, on 19th December 2007; and
- in any other case, on 19th March 2007.

Article 3(3) provides that the deemed registration will cease before those dates if and when any of the following circumstances first occurs—

- where an application for registration of the service is made and the Commission grants the application, on the date on which it does so.
- where an application for registration of the service is made but the Commission decides to refuse the application and—
 - no appeal is made under section 20(1) of the Act (appeal against decision to implement a proposal) against the decision, the fifteenth day after the day on which notice of the decision is given under section 17(3) of the Act (notice of decision to implement a proposal in relation to which it has given a person a condition notice or a notice under section 15 of the Act);
 - such an appeal is made timeously and the sheriff confirms the decision, the day on which the sheriff does so; or
 - such an appeal is made timeously but is abandoned, the day on which abandonment of the appeal is intimated to the sheriff clerk, or if abandonment is not so intimated the day on which the sheriff deems the appeal to have been abandoned.
- where the Commission decides (other than in accordance with an application under section 14(1)(b) of the Act (application for cancellation of the registration)) to cancel the registration of the service effected by virtue of article 3(1) of the Order and—
 - no appeal is made under section 20(1) of the Act against the decision, the fifteenth day after the day on which notice of the decision is given under section 17(3) of the Act;
 - such an appeal is made timeously and the sheriff confirms the decision, the day on which the sheriff does so; or
 - such an appeal is made timeously but is abandoned, the day on which abandonment of the appeal is intimated to the sheriff clerk, or if abandonment is not so intimated the day on which the sheriff deems the appeal to have been abandoned.
- where the sheriff grants an application by the Commission under section 18 of the Act (urgent procedures for cancellation of registration, etc.) for cancellation of the registration of the service effected by virtue of article 3(1) of the Order, the day on which the sheriff does so.
- on the day on which the person ceases to provide the service.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

1. The following provisions of the Act have been brought into force by the Regulation of Care (Scotland) Act 2001 (Commencement No. 1) Order 2001 (S.S.I. 2001/304)–

<i>Provision</i>	<i>Date of Commencement</i>
Sections 5(1) and (2), 6, 24(1), 29, 30, 53 to 55, 63 to 65, 67, 71, 79 (partially), 80(3) and (4), and paragraphs 20 and 23(7) of Schedule 3	1st October 2001
Section 70	20th December 2001

2. The following provisions of the Act have been brought into force by the Regulation of Care (Scotland) Act 2001 (Commencement No. 2 and Transitional Provisions) Order 2002 (S.S.I. 2002/162)–

<i>Provision</i>	<i>Date of Commencement</i>
Section 2 subsections (1)(a) to (h), (l) and (m), (2) to (4), (5)(a) and (b), (6), (9), (17) to (26) and (28)	1st April 2002
Section 2(5)(c) (partially)	1st April 2002
Section 2(7) (partially)	1st April 2002
Section 2(10) (partially)	1st April 2002
Sections 3, 5(3), 7, 9 to 23, 24(2) and (3), 25 to 27, 31, 32, 33(1)(c) and (2) to (4), 34 to 42, 44 to 51 and 72	1st April 2002
Section 79 (partially)(a)	1st April 2002
Section 80(1) (partially)	1st April 2002
Paragraphs 1 to 3, 4(1) and (3), 5, 6, 7(11)(b), 8 to 19, 21, 23(1) to (6) and 25 of Schedule 3	1st April 2002
Schedule 4 (partially)	1st April 2002

3. The following provisions of the Act have been brought into force by the Regulation of Care (Scotland) Act 2001 (Commencement No. 3 and Transitional Provisions) Order 2003 (S.S.I. 2003/205)–

<i>Provision</i>	<i>Date of Commencement</i>
Section 2(1)(n)	1st April 2003
Section 2(7) so far as not already in force on 1st April 2003(b)	1st April 2003
Section 2(8)	1st April 2003
Section 2(27)	1st April 2003
Section 8	1st April 2003

(a) Section 79 was brought partially into force on 1st October 2001 by S.S.I. 2001/304 and partially into force on 1st April 2004 by S.S.I. 2004/100.

(b) Section 2(7) was brought partially into force on 1st April 2002 by S.S.I. 2002/162.

4. The following provisions of the Act have been brought into force by the Regulation of Care (Scotland) Act 2001 (Commencement No. 4) Order 2003 (S.S.I. 2003/596)–

<i>Provision</i>	<i>Date of Commencement</i>
Section 73(1)(a)	5th December 2003
Section 73(2)	5th December 2003
Section 73(3)	5th December 2003
Section 73(4)	5th December 2003
Section 73(1)(b)	1st April 2004

5. The following provisions of the Act have been brought into force by the Regulation of Care (Scotland) Act 2001 (Commencement No. 5 and Transitional Provisions) Order 2004 (S.S.I. 2004/100)–

<i>Provision</i>	<i>Date of Commencement</i>
Section 2 subsections (1)(i) and (j), (10) (so far as not already in force on 1st April 2004)(a) and (11) to (15)	1st April 2004
Section 5(4)	1st April 2004
Section 33(1) (so far as not already in force on 1st April 2004)(b)	1st April 2004
Section 79 (partially)(c)	1st April 2004
Paragraphs 4(2), 7(1) to (10), (11), (so far as not already in force on 1st April 2004)(d) and 22(b) and (c) of Schedule 3	1st April 2004
Section 80(1) (partially)(e)	1st April 2004
Schedule 4 (partially)(f)	1st April 2004

6. The following provisions of the Act have been brought into force by the Regulation of Care (Scotland) Act 2001 (Commencement No. 6) Order 2005 (S.S.I. 2005/426)–

<i>Provision</i>	<i>Date of Commencement</i>
Section 52(1)(a)	1st September 2005
Section 52(2)	1st September 2005

(a) Section 2(10) was brought partially into force on 1st April 2002 by S.S.I. 2002/162.

(b) Section 33(1)(c) was brought into force on 1st April 2002 by S.S.I. 2002/162.

(c) Section 79 was brought partially into force on 1st October 2001 by S.S.I. 2001/304, and partially into force on 1st April 2002 by S.S.I. 2002/162.

(d) Paragraph 7(11)(b) of Schedule 3 was brought into force on 1st April 2002 by S.S.I. 2002/162.

(e) Section 80(1) was brought partially into force on 1st April 2002 by S.S.I. 2002/162.

(f) Schedule 4 was brought partially into force on 1st April 2002 by S.S.I. 2002/162.

2006 No. 275 (C.26)

SOCIAL CARE

The Regulation of Care (Scotland) Act 2001 (Commencement
No. 7 and Transitional Provisions) Order 2006

£3.00

© Crown Copyright 2006