
STATUTORY INSTRUMENTS

2009 No. 3023

**The Health and Social Care Act 2008 (Commencement
No. 13, Transitory and Transitional Provisions
and Electronic Communications) Order 2009**

Cancellation proceedings under the Act before the determination

13.—(1) The Commission is not required to determine a transitional application made by an existing registrant who, at the time that their transitional application falls to be determined by the Commission, comes within paragraph (4) or (5).

(2) Where paragraph (1) applies—

- (a) the Regulated Activities Regulations 2009 apply to the existing registrant until the date they are revoked or, notwithstanding such revocation, until the date specified in paragraph (6) if later; and
- (b) if the date specified in paragraph (6) is on or after the second appointed date, the provisions of any regulations made under section 8 (regulated activities) or 20 (regulation of regulated activities) of the Act that come into force on the second appointed date do not apply to such a registrant until the day after the date specified in paragraph (6).

(3) Where a person comes within paragraph (4) or (5) on the first appointed date and that person has not made a transitional application—

- (a) the Regulated Activities Regulations 2009 continue to apply to the person until the date they are revoked or, notwithstanding such revocation, the date specified in paragraph (6) if later; and
- (b) the provisions of any regulations made under section 8 or 20 of the Act that come into force on the second appointed date do not apply to such a person until the day after the date specified in paragraph (6).

(4) A person comes within this paragraph where a notice of proposal to cancel their existing registration has been served on them under section 26(4)(a) of the Act (notice of proposals) and—

- (a) the Commission has not withdrawn that proposal and no notice of decision has been given under section 28 of the Act (notice of decisions) in respect of that proposal;
- (b) a notice of decision has been given in respect of that notice of proposal, no notification has been given under section 28(7) of the Act, the time for making an appeal under section 32(2) of the Act (appeals to the Tribunal) has not elapsed and no appeal has been made; or
- (c) an appeal has been made in respect of a notice of decision to cancel registration but that appeal has not been determined or withdrawn.

(5) A person comes within this paragraph where an application made to a justice of the peace under section 30 of the Act (urgent procedure for cancellation) to cancel registration has been granted and—

- (a) the time for making an appeal under section 32(2) of the Act has not elapsed, and no appeal has been made; or

- (b) an appeal has been made in respect of an order made under section 30 of the Act, but that appeal has not been determined or withdrawn.
- (6) The date specified for the purposes of paragraphs (2) and (3) is—
 - (a) in cases where no appeal is made against the notice of decision to adopt a proposal referred to in paragraph (4) or the order referred to in paragraph (5) during the period referred to in section 32(2) of the Act, the date on which that period expires in relation to that notice or order;
 - (b) in cases where such an appeal is made within that period, the date on which that appeal is—
 - (i) withdrawn, or
 - (ii) determined and the decision of the Commission or the order of the justice of the peace is confirmed by the Tribunal; or
 - (c) in cases where notification of the need to make a transitional application is sent to a person pursuant to article 14(3)—
 - (i) the date specified by the Commission in that notice as the one by which such an application must be made, or
 - (ii) if a transitional application is made by that person on or before that date, the date on which the Commission determines that application.