
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 after the determination

15.—(1) Paragraph (2) applies where, on a date after a decision has been made by the Commission to grant a transitional application, paragraph (3) or (4) becomes applicable to the existing registration of the person in respect of whom that decision was made.

(2) Where this paragraph applies—

- (a) the decision to grant the transitional application has no effect from the date on which paragraph (3) or (4) becomes applicable;
- (b) 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
- (c) 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) This paragraph applies to an existing registration in relation to which notice of proposal to cancel registration has been served on the existing registrant 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- (a) the Commission has not withdrawn that proposal and no notice of decision has been given under section 28 of the Act (notice of decisions) in respect of that notice of proposal;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has been made in respect of a notice of decision to cancel registration but that appeal has not been determined or withdrawn.

(4) This paragraph applies to an existing registration in relation to which 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.

(5) The Commission must, on or before the date specified in paragraph (6), make a new determination of the transitional application referred to in paragraph (1) in accordance with articles 6 to 8—

- (a) taking into account the cancellation proceedings under the Act; and
 - (b) in a case where the date in paragraph (6)(c) applies, ensuring that the Tribunal's direction is reflected.
- (6) The date specified for the purposes of paragraph (2) and (5) is—
- (a) in cases where no appeal is made against the notice of decision to adopt a proposal referred to in paragraph (3) or the order referred to in paragraph (4) during the period referred to in section 32(2) of the Act (appeals to the Tribunal), the date that is the end of a period of 14 days beginning on the date on which the period in section 32(2) of the Act expires in relation to that notice or order;
 - (b) in cases where such an appeal is made within that period, the date that is the end of a period of 14 days beginning on 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 the Tribunal directs that the notice of decision to adopt a proposal referred to in paragraph (3) or the order referred to in paragraph (4), shall not, or shall cease to, have effect, the date that is the end of a period of 14 days beginning on the day on which the Tribunal makes such a direction.