
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

Transitional applications where there is an outstanding matter relating to an application to vary or remove a condition

10.—(1) Where this article applies, notwithstanding the amendment of sections 1 to 5 of the 2000 Act on 1st October 2010, sections 15, 17 to 19 and 21 of that Act continue to apply to an application under section 15(1)(a) of that Act (applications by registered persons) until the date specified in paragraph (7).

(2) This article applies where a condition is in force before 1st October 2010 in relation to a CSA registrant or registered manager, an application has been made under section 15(1)(a) of the 2000 Act in relation to that condition and—

- (a) on a date on which the Commission makes a determination in relation to that registrant or manager, paragraph (3)(a), (b), (c) or (d) applies to that application; or
 - (b) at any time after a decision has been made by the Commission to grant a transitional application, a notice referred to in paragraph (5)(a), (b) or (c) is given.
- (3) This paragraph applies where—
- (a) no notice of decision has been given under section 15(4) of the 2000 Act nor a notice of proposal given under section 17(5) of that Act (notice of proposals);
 - (b) a notice of proposal has been given under section 17(5) of the 2000 Act, the Commission has not withdrawn that notice of proposal and no notice of decision has been given under section 19 of that Act (notice of decisions);
 - (c) a notice of decision has been given in respect of the application under section 19 of the 2000 Act, the time for making an appeal under section 21(2) of that Act (appeals to the Tribunal) has not elapsed and no appeal has been made; or
 - (d) an appeal has been made under section 21 of the 2000 Act but that appeal has not been determined or abandoned.
- (4) Where, at the time a determination falls to be made by the Commission—
- (a) paragraph (3)(a) applies, the Commission must consider the application under section 15(1)(a) of the 2000 Act in making that determination;
 - (b) paragraph (3)(b) applies, the Commission must consider the notice of proposal and any representations received within the time period specified in section 18(1) of the 2000 Act in making that determination;
 - (c) paragraph (3)(c) applies, the Commission must consider the notice of decision in making that determination; or

(d) paragraph (3)(d) applies, the Commission must consider the notice of decision and the grounds of appeal in making that determination.

(5) Where, after a decision has been made by the Commission to grant a transitional application, the Commission gives—

- (a) a notice of decision under section 15(4) of the 2000 Act;
- (b) a notice of proposal under section 17(5) of the 2000 Act; or
- (c) a notice of decision under section 19(3) of the 2000 Act,

the Commission must consider whether it should exercise its powers under section 12(5) or 15(5) of the Act (conditions of registration) in relation to the person's registration under the Act.

(6) Where the Tribunal makes, in respect of an application to which this article applies, a decision pursuant to section 21 of the 2000 Act, the Commission must, if notice of that decision is sent to it—

- (a) before it makes a determination to which that decision is relevant, reflect that decision in that determination; or
- (b) after it makes a decision to grant a transitional application, consider whether it needs to exercise its powers under section 12(5) or 15(5) of the Act in order to reflect that decision.

(7) The date specified for the purposes of paragraph (1) is the date on which—

- (a) the applicant withdraws the application under section 15(1)(a) of the 2000 Act;
- (b) the applicant gives notice that there is no intention to appeal under section 19(6) of that Act;
- (c) the period referred to in section 21(2) of that Act (appeals to the Tribunal) expires, if no appeal is made during that time period; or
- (d) an appeal made under section 21 of that Act is abandoned or determined.