
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 98

**The Regulation of Care (Scotland) Act
2001 (Transitional Provisions) Order 2005**

Transitional provisions

2.—(1) Where immediately before 1st April 2005 a person was providing a school care accommodation service to which this article applies, 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 31st December 2005 made an application for registration of the service under section 7(1) of the Act (application for registration), on 30th September 2006; or
- (b) in any other case, on 31st December 2005.

(3) The service ceases to be treated as registered by virtue of paragraph (1) before 30th September 2006 or 31st December 2005 as mentioned in paragraph 2(a) or (b) on whichever of following first occurs—

- (a) where the Commission decides to refuse the application 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 (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;
- (b) 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;

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- (c) 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
 - (d) on the day on which the person ceases to provide the service.
- (4) This article applies to a school care accommodation service which provides residential accommodation where it is–
- (a) provided by or under arrangements made by the managers of an independent school and does not provide personal care or support;
 - (b) provided by an education authority with respect to a special school within the meaning of the Education (Scotland) Act 1980(1); or
 - (c) a hostel provided by the local authority for the use of children to enable them to attend school.

(1) 1980 c. 44. “Special school” is defined in section 135(1) of that Act which was relevantly amended by the Education (Scotland) Act 1981 (c. 58), Schedule 2, Part I, paragraph 4.