
SCOTTISH STATUTORY INSTRUMENTS

2002 No. 162

The Regulation of Care (Scotland) Act 2001 (Commencement No. 2 and Transitional Provisions) Order 2002

Pre-commencement applications for registration

13.—(1) Where before the commencement date a person, other than a person to whom article 3(1) or 6(1) applies, has made an application to—

- (a) a Health Board under—
 - (i) the 1938 Act for registration in respect of a nursing home; or
 - (ii) the 1951 Act for a licence authorising that person to carry on an agency for the supply of nurses; or
- (b) a local authority under—
 - (i) the 1968 Act for registration in respect of an establishment; or
 - (ii) the 1989 Act for registration as a person who acts as a child minder or provides day care for children,

the application shall, unless it is one to which paragraph (2) applies, be treated as if it had been made to the Commission on that date in accordance with section 7 of the Act for registration of a care service of the type which the person proposes to carry on.

(2) This paragraph applies to an application specified in paragraph (1) where the existing authority has—

- (a) under section 3 of the 1938 Act given notice of their intention to refuse an application for registration under that Act;
- (b) refused to grant a licence to carry on an agency for the supply of nurses under the 1951 Act;
- (c) under section 64(1) of the 1968 Act given notice of their intention to refuse an application for registration under that Act; or
- (d) under section 77(1) of the 1989 Act sent notice of their intention to refuse an application for registration under section 71 of that Act.

(3) Where paragraph (2) applies—

- (a) the existing law shall continue in force for the purpose of determining whether the application is to be granted; and
- (b) where the application is so granted, it shall be treated as if it had been granted by the Commission in respect of a care service of the type which the person proposes to carry on.

“existing authority” means the Health Board or local authority to whom the application was made; and

“existing law” means the enactment under which the application was made.

In this article—