
STATUTORY INSTRUMENTS

2009 No. 3023

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

Transitional provisions relating to registration subject to conditions

7.—(1) Where, pursuant to section 12 of the Act (grant or refusal of registration as a service provider) as modified by article 6, the Commission decides to grant a transitional application subject to any condition which has not been agreed in writing between it and the applicant—

- (a) section 26(2) (notice of proposals) and 28(4)(b) (notice of decisions) of the Act do not apply; and
- (b) the Commission must follow the procedure set out in the following paragraphs.

(2) The Commission must give the applicant notice in writing of its decision under paragraph (1) and of the conditions to which the registration is to be made subject.

(3) A notice under paragraph (2) must—

- (a) give the Commission's reasons for its decision; and
- (b) state that within 28 days of service of the notice, the person on whom it was served may make written representations to the Commission concerning any matter which that person wishes to dispute.

(4) In the case of any application which is made on or before 29th January 2010, the Commission must use its best endeavours to give the notice referred to in paragraph (2) before the second appointed date.

(5) Within 28 days of the date of receipt of representations from an applicant pursuant to paragraph (3)(b), the Commission must give notice in writing—

- (a) confirming the original decision; or
- (b) varying or removing any of the conditions.

(6) Section 32 of the Act (appeals to the Tribunal) applies to the notice referred to in paragraph (5) as it applies to a decision of the Commission under Chapter 2 of Part 1 of the Act.

(7) Notwithstanding the right to make representations under paragraph (3) and the right of appeal to the Tribunal under paragraph (6), any condition set out in a notice under paragraph (2) shall, unless otherwise specified by the Commission in the notice, have effect from the second appointed date or, if later, the date of grant of registration, until such date as—

- (a) the registered person is notified in writing by the Commission of its variation or removal; or
- (b) the Tribunal directs that it is to cease to have effect.

(8) Any removal of a condition set out in a notice under paragraph (5) has effect from the date of that notice.

(9) Notwithstanding the right of appeal to the Tribunal under paragraph (6), any varied condition set out in a notice under paragraph (5) shall, unless otherwise specified by the Commission in the notice, have effect from the date of the notice until such date as—

- (a) the registered person is notified in writing by the Commission of its variation or removal;
or
- (b) the Tribunal directs that it is to cease to have effect.

(10) In deciding whether to specify a date other than—

- (a) the second appointed date or, if later, the date of grant of registration, in the case of a notice under paragraph (2); or
- (b) the date of the notice, in the case of a notice under paragraph (5) varying any of the conditions,

the Commission must have regard to the need to strike a balance between the desirability of preserving service continuity and the exposure of any person to the risk of harm.