



# Public Health (Wales) Act 2017

2017 anaw 2

## PART 4

### SPECIAL PROCEDURES

#### *Approved premises and vehicles*

#### **69 Performance of special procedure in course of business: approval requirement**

- (1) A person carrying on a business in the course of which a special procedure is performed must comply with the requirements in subsections (2) and (3).
- (2) The first requirement is to ensure that the procedure, so far as carried on in the course of the business—
  - (a) in the case of a special procedure performed at premises, is performed at premises approved under section 70 in respect of the procedure;
  - (b) in the case of a special procedure performed in a vehicle, is performed in a vehicle approved under section 70 in respect of the procedure.
- (3) The second requirement is to ensure compliance with the applicable mandatory conditions of approval.
- (4) The applicable mandatory conditions of approval, for this purpose, are the mandatory approval conditions to which approval of the premises or vehicle concerned is subject. (For mandatory approval conditions, see section 70(3).)
- (5) Subsections (6) and (7) apply in the case of an exhibition, entertainment or other event—
  - (a) to which members of the public have access, and
  - (b) at which a special procedure is performed by a person in the course of a business.
- (6) The person who organises the exhibition, entertainment or event is to be treated for the purposes of this section as carrying on a business in the course of which the special procedure is performed.

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*Status: This is the original version (as it was originally enacted).*

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- (7) The premises at which the exhibition, entertainment or event is held are to be treated for the purposes of this section as being the premises at which the special procedure is performed in the course of that business.
- (8) Regulations—
- (a) may provide that either or both of the requirements in subsections (2) and (3) do not apply in respect of a description of premises, or vehicle, specified in the regulations;
  - (b) may provide for any one or more of subsections (5) to (7) to apply with modifications, or not to apply, in respect of a description of person, or a description of premises or vehicle, specified in the regulations.
- (9) For the purposes of subsection (8), premises or vehicles may be described by reference to any of the following (among other things)—
- (a) the persons by whom they are managed or controlled;
  - (b) the nature of activities carried on at or in them (including, among other things, the range of special procedures performed at or in them);
  - (c) the different circumstances in which a special procedure is performed at or in them (including by reference to, among other things, the frequency or regularity with which a special procedure is performed at or in them, the duration of any period during which a special procedure is performed at or in them, and whether a special procedure is performed at or in them on a peripatetic basis, on a fixed site basis, on a mobile basis, on a temporary basis, or otherwise);
  - (d) the number of individuals by whom special procedures are performed at or in them.
- (10) For the purposes of this section and section 70, an individual designated under section 61 in respect of a special procedure is to be treated as carrying on a business in the course of which that procedure is performed.

## **70 Approval of premises and vehicles in respect of performance of special procedure**

- (1) A local authority may, on an application to it by a person carrying on a business in the course of which a special procedure is or is likely to be performed in its area, by issuing a certificate under this section (an “approval certificate”), approve in respect of the special procedure premises or a vehicle that are within subsection (2).
- (2) Premises or a vehicle are within this subsection if—
- (a) in the case of premises, they are in the area of the local authority;
  - (b) in the case of a vehicle, the local authority considers that the vehicle is, or is likely to be, driven, used or kept in the area of the local authority.
- (3) Regulations must make provision—
- (a) for criteria that must be met for an application for approval to be granted;
  - (b) for circumstances in which an application for approval is to be granted;
  - (c) for conditions (“mandatory approval conditions”) to which an approval under this section is to be subject;
  - (d) about appealing against refusal of an application for approval.

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- (4) The mandatory approval conditions may, among other things, include conditions relating to the inspection of premises and vehicles approved under this section, and the display of an approval certificate.
- (5) An approval certificate must specify a period for which, in the absence of any previous expiry under section 72 or 73, the approval to which it relates is to have effect, being either—
  - (a) a period of no more than seven days, beginning with the date on which the approval certificate is issued (the “approval date”), or
  - (b) a period of three years, beginning with the approval date.
- (6) Unless it previously ceases to have effect under section 72 or 73, approval under this section ceases to have effect with the expiry of that period.
- (7) Regulations may make provision about—
  - (a) the way in which applications for approval are to be made and dealt with (including for the payment of a fee in respect of an application, and for inspections to be carried out before an approval is granted);
  - (b) circumstances in which an application for approval must not be granted, or may be granted at the discretion of the authority to which the application is made;
  - (c) the renewal of approval;
  - (d) the variation of approval.
- (8) Regulations making provision as described in subsection (7)(a) may include (among other things)—
  - (a) provision about how a local authority is to determine the amount of a fee payable in respect of an application;
  - (b) provision about the consequences of failure to comply with a requirement to pay a fee (including provision permitting the local authority to decline to proceed with the application).
- (9) Regulations under this section may make different provision for different purposes, including (among other things) in respect of—
  - (a) different descriptions of premises and vehicles;
  - (b) different descriptions of special procedure;
  - (c) different circumstances in which a special procedure is performed (including by reference to, among other things, the frequency or regularity with which a special procedure is performed at premises or in a vehicle, the duration of any period during which a special procedure is performed at premises or in a vehicle, and whether a special procedure is performed on a peripatetic basis, on a fixed site basis, on a mobile basis, on a temporary basis, or otherwise).

## **71 Approval certificates**

- (1) An approval certificate must state—
  - (a) the approval date;
  - (b) the special procedure in respect of which the premises (or vehicle) concerned are approved;
  - (c) the date with the expiry of which the approval will, unless it previously ceases to have effect under section 72 or 73, expire under section 70(6).

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- (2) In the case of approval of premises, an approval certificate must also state the address of the premises.
- (3) In the case of approval of a vehicle, an approval certificate must also—
  - (a) if the vehicle has a registration number, state that number;
  - (b) if the vehicle does not have a registration number, identify the vehicle in whatever way the authority issuing the certificate considers appropriate.
- (4) Regulations may make further provision about the form and content of approval certificates.
- (5) In this section, “approval date” has the same meaning as in section 70(5).

## **72 Voluntary termination of approval**

- (1) Where a person on whose application a local authority has approved premises or a vehicle under section 70, in respect of a special procedure, wishes the approval to cease to have effect, the person may give notice to that effect to the authority.
- (2) The notice must state the date with the expiry of which approval is to cease to have effect.
- (3) Subject to any earlier expiry under section 70(6) or 73, the approval ceases to have effect with the expiry of the date specified in the notice.
- (4) An authority to which notice under this section is given must take reasonable steps for bringing the notice to the attention of any persons the authority thinks likely to be affected by the notice.
- (5) Regulations may make further provision about notice under this section, including (among other things) about information to be included in the notice.

## **73 Revocation of approval**

- (1) If a local authority is satisfied that both of the conditions in subsection (2) are met, it may give notice to a person (“P”) on whose application premises or a vehicle have been approved under section 70 by the authority, revoking the approval of the premises or vehicle under that section in respect of a special procedure specified in the notice.
- (2) The conditions are—
  - (a) that the mandatory approval conditions that apply in respect of the premises or vehicle have not been complied with, and
  - (b) that the non-compliance presents, or could present, significant risk of harm to human health.
- (3) Paragraphs 15 to 21 of Schedule 3 apply in respect of a revocation under this section as if the revocation were a revocation under section 68 (revocation of special procedure licence) and for this purpose references in those paragraphs—
  - (a) to a licence holder, are to be treated as references to P;
  - (b) to notice given under section 68, are to be treated as references to notice under subsection (1);
  - (c) to functions under section 68, are to be treated as references to functions under this section.

- (4) Revocation under this section has effect—
- (a) with the expiry of the period for bringing an appeal under Schedule 3 in respect of the revocation expires, if no appeal is brought under that Schedule within that period;
  - (b) with the date of the withdrawal of any appeal or further appeal brought in respect of the revocation, or the date of final determination of any unsuccessful appeal or further appeal brought in respect of the revocation, where the appeal or further appeal has been brought under Schedule 3 and no further appeal under that Schedule is available;
  - (c) with the expiry of the period for bringing a further appeal under Schedule 3, where an appeal brought under Schedule 3 in respect of the revocation is withdrawn or unsuccessful, and a further appeal under Schedule 3 is available but is not brought within that period.

#### **74 Revocation of approval: notification requirements**

- (1) A local authority that gives notice under one of the provisions specified in subsection (2) to a person in respect of a revocation, or a proposed revocation, of approval under section 70 must take reasonable steps for bringing the notice to the attention of any persons the authority thinks likely to be affected by the notice.
- (2) The provisions are section 73 and paragraph 15(3) or 17 of Schedule 3 (as applied by section 73(3)).