



# Public Health (Wales) Act 2017

2017 anaw 2

## PART 4

### SPECIAL PROCEDURES

#### *Remedial action notices*

#### **78 Special procedure licences: licence holder remedial action notices**

- (1) If a local authority by which a special procedure licence authorising the performance of a special procedure was issued is satisfied that the licence holder is in breach of an applicable mandatory licensing condition, it may give notice under this section to the licence holder.
- (2) Notice given under this section is referred to in this Part as a licence holder remedial action notice.
- (3) A licence holder remedial action notice must—
  - (a) state that the local authority is satisfied that the licence holder is in breach of an applicable mandatory licensing condition;
  - (b) specify the matters giving rise to the breach;
  - (c) specify steps to be taken by the licence holder in order to secure compliance with the applicable mandatory licensing conditions;
  - (d) specify a period (the “compliance period”) of not less than 14 days beginning with the date of the notice during which those steps are to be taken.
- (4) A licence holder remedial action notice must also state—
  - (a) that the licence holder may appeal under section 81 against the notice, and
  - (b) the period within which an appeal may be brought.
- (5) If the authority is satisfied that the breach of the condition presents, or could present, significant risk of harm to human health, the licence holder remedial action notice may also prohibit the performance of the procedure by the licence holder until the steps specified under subsection (3)(c) have been taken.

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*Status: This is the original version (as it was originally enacted).*

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- (6) The prohibition may relate to the performance of the procedure by the licence holder in an area in Wales that is specified in the notice, or to its performance by the licence holder anywhere in Wales.
- (7) Where a licence holder remedial action notice has been given to a licence holder, no proceedings for an offence under section 82 are to be instituted during the compliance period in respect of—
  - (a) the breach that gave rise to the notice, or
  - (b) any continuation of that breach.
- (8) If the steps specified in a licence holder remedial action notice are taken during the compliance period, no proceedings for an offence under section 82 are to be instituted in respect of—
  - (a) the breach that gave rise to the notice, or
  - (b) any continuation of that breach prior to the taking of the steps specified in the notice.
- (9) But nothing in subsection (7) or (8) prevents proceedings for an offence under section 82 being instituted, at any time, in respect of the breach of a prohibition on the performance of a procedure that is included in a licence holder remedial action notice under subsection (5).

## **79 Approved premises and vehicles: premises remedial action notices**

- (1) If a local authority that has approved premises or a vehicle under section 70 is satisfied that a person is in breach of the requirement in section 69(3) (compliance with applicable mandatory conditions of approval) in respect of the premises or vehicle, it may give notice under this section to the person.
- (2) Notice given under this section to a person (“P”) is referred to in this Part as a premises remedial action notice.
- (3) A premises remedial action notice must—
  - (a) state that the local authority is satisfied that P is in breach of the requirement in section 69(3);
  - (b) specify the matters giving rise to the breach;
  - (c) specify steps to be taken by P in order to secure compliance with the requirement;
  - (d) specify a period (the “compliance period”) of not less than 14 days beginning with the date of the notice during which those steps are to be taken.
- (4) A premises remedial action notice must also state—
  - (a) that P may appeal under section 81 against the notice, and
  - (b) the period within which an appeal may be brought.
- (5) If the authority is satisfied that the breach of the requirement presents, or could present, significant risk of harm to human health, the premises remedial action notice may also prohibit the performance of a special procedure, until the steps specified under subsection (3)(c) have been taken, at the premises or (as the case may be) in the vehicle to which the notice relates.
- (6) No proceedings for an offence under section 82 are to be instituted against P during the compliance period in respect of—

- (a) the breach that gave rise to the notice, or
  - (b) any continuation of that breach.
- (7) If the steps specified in a premises remedial action notice are taken during the compliance period, no proceedings for an offence under section 82 are to be instituted against P in respect of—
- (a) the breach that gave rise to the notice, or
  - (b) any continuation of that breach prior to the taking of the steps specified in the notice.
- (8) But nothing in subsection (6) or (7) prevents proceedings for an offence under section 82 being instituted, at any time, in respect of the breach of a prohibition on the performance of a procedure that is included in a premises remedial action notice under subsection (5).
- (9) If a premises remedial action notice given to a person prohibits the performance of a special procedure as described in subsection (5), the authority by which it was 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.

## **80 Completion certificate**

- (1) This section and section 81 apply where a local authority has given notice under section 78 or 79 to a person (“P”).
- (2) If the authority is satisfied that P has taken the steps specified in the notice, the authority must give a certificate to that effect to P (a “completion certificate”) discharging the notice.
- (3) P may at any time apply to the authority for a completion certificate.
- (4) The application—
- (a) is to be made in whatever way the authority may require, and
  - (b) is to include whatever information the authority may require.
- (5) If a local authority refuses an application under subsection (3), it must give P notice that the application is refused.
- (6) The notice must—
- (a) set out the authority’s reasons for refusing the application,
  - (b) state that P may appeal under section 81 against the decision, and
  - (c) specify the period within which an appeal may be brought.
- (7) A local authority that gives a certificate or notice under this section must take reasonable steps for bringing the certificate or notice to the attention of any persons the authority thinks likely to be affected by it.