



# Public Health (Wales) Act 2017

2017 anaw 2

## PART 5

### INTIMATE PIERCING

#### *Offences related to intimate piercing*

#### **95 Offence of performing or making arrangements to perform an intimate piercing on a child**

- (1) It is an offence for a person in Wales to—
  - (a) perform an intimate piercing on a person who is under the age of 18, or
  - (b) make arrangements to perform an intimate piercing, in Wales, on a particular person who is under the age of 18.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine.
- (3) Where a person (“the accused”) is charged with an offence under this section by reason of the accused’s own conduct (and otherwise than by virtue of the application of section 44 of the [Magistrates’ Courts Act 1980 \(c.43\)](#) (aiders and abettors)) it is a defence for the accused to show—
  - (a) that the accused believed that the person on whom the piercing referred to in subsection (1)(a) was performed, or in respect of whom the arrangements referred to in subsection (1)(b) were made, was aged 18 or over, and
  - (b) either—
    - (i) that the accused had taken reasonable steps to establish the age of that person, or
    - (ii) that nobody could reasonably have suspected from that person’s appearance that the person was under the age of 18.
- (4) For the purposes of subsection (3)(b)(i), the accused (in the case of an offence under subsection (1)(a)) is to be treated as having taken reasonable steps to establish the age of another person if—

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- (a) the accused asked that person for evidence of that person's age, and
  - (b) the evidence would have convinced a reasonable person.
- (5) Where a person is charged with an offence under this section by reason of the act or default of another person, or by virtue of the application of section 44 of the [Magistrates' Courts Act 1980 \(c.43\)](#) (aiders and abettors), it is a defence to show that the person took reasonable precautions and exercised due diligence to avoid committing the offence.

## 96 What is an intimate piercing?

- (1) For the purposes of section 95, an intimate piercing is a body piercing performed on an intimate body part listed in subsection (2), where performed otherwise than in the course of a medical procedure.
- (2) The intimate body parts are the—
- (a) anus;
  - (b) breast (including the nipple and areola);
  - (c) buttock;
  - (d) natal cleft;
  - (e) penis (including the foreskin);
  - (f) perineum;
  - (g) pubic mound;
  - (h) scrotum;
  - (i) tongue;
  - (j) vulva.
- (3) In this section “body piercing” has the meaning given in section 94.
- (4) For the purposes of this section a medical procedure is a procedure carried out by a registered medical practitioner, registered nurse or registered midwife, for the purposes of, or in connection with—
- (a) the diagnosis, prevention, monitoring, treatment or alleviation of disease, ill-health, disability, or other physical or mental abnormality, or
  - (b) birth control.

### *Enforcement*

## 97 Enforcement action by local authorities

- (1) A local authority may—
- (a) bring prosecutions in respect of offences in its area under section 95;
  - (b) investigate complaints in respect of alleged offences in its area under section 95;
  - (c) take any other steps with a view to reducing the incidence of offences under section 95 in its area.
- (2) A local authority must—
- (a) consider, at least once in every period of twelve months, the extent to which it is appropriate for the authority to carry out in its area a programme of enforcement action in relation to section 95, and

- (b) to the extent that it considers it appropriate to do so, carry out such a programme.
- (3) For the purposes of subsection (2), a programme of enforcement action in relation to section 95 is a programme involving the taking of all or any of the steps referred to in subsection (1).
- (4) For the purpose of the exercise of its functions under subsection (2), a local authority must carry out such consultation as it considers appropriate with the chief officer of police for a police area any part of which falls within the area of the local authority.

## **98 Authorised officers**

References in this Part to an authorised officer are to any person (whether or not an officer of the local authority) authorised by a local authority for the purposes of this Part.

## **99 Powers of entry**

- (1) A constable or authorised officer may enter premises at any reasonable time if the constable or authorised officer—
  - (a) has reasonable grounds for believing that an offence under section 95 has been committed, and
  - (b) considers it necessary to enter the premises for the purpose of ascertaining whether such an offence has been committed.
- (2) But this does not apply in relation to premises used wholly or mainly as a dwelling.
- (3) A person referred to in subsection (1) may not enter premises by force under this section.
- (4) An authorised officer must, if asked to do so, before entering premises under this section show evidence of the authorisation referred to in section 98.
- (5) In this section and in sections 100 to 103, “premises” includes any place and any vehicle (other than an aircraft or hovercraft), stall or moveable structure.

## **100 Warrant to enter dwelling**

- (1) A justice of the peace may exercise the power in subsection (2) in relation to premises in Wales used wholly or mainly as a dwelling if satisfied on sworn information in writing—
  - (a) that there are reasonable grounds for believing than an offence under section 95 has been committed, and
  - (b) that it is necessary to enter the premises for the purpose of ascertaining whether such an offence has been committed.
- (2) The justice may issue a warrant authorising a constable or authorised officer to enter the premises, if need be by force.
- (3) The warrant continues in force until the end of the period of 28 days beginning with the date on which it was issued.

**101 Warrant to enter other premises**

- (1) A justice of the peace may exercise the power in subsection (2) in relation to premises in Wales other than premises used wholly or mainly as a dwelling if satisfied on sworn information in writing—
  - (a) that there are reasonable grounds for believing that an offence under section 95 has been committed,
  - (b) that it is necessary to enter the premises for the purpose of ascertaining whether such an offence has been committed, and
  - (c) that a requirement set out in one or more of subsections (3) to (6) is met.
- (2) The justice may issue a warrant authorising a constable or authorised officer to enter the premises, if need be by force.
- (3) The requirement is that—
  - (a) a request to enter the premises has been, or is likely to be, refused, and
  - (b) notice of intention to apply for a warrant under this section has been given to the occupier or a person who reasonably appears to the justice of the peace to be concerned in the management of the premises.
- (4) The requirement is that requesting to enter the premises, or the giving of notice of intention to apply for a warrant under this section, is likely to defeat the purpose of the entry.
- (5) The requirement is that the premises are unoccupied.
- (6) The requirement is that—
  - (a) the occupier of the premises is temporarily absent, and
  - (b) awaiting the occupier's return is likely to defeat the object of the entry.
- (7) The warrant continues in force until the end of the period of 28 days beginning with the date on which it was issued.

**102 Supplementary provision about powers of entry**

- (1) A person entering premises by virtue of section 99, or by virtue of a warrant under section 100 or 101, may take such other persons and such equipment as the person considers appropriate.
- (2) If the occupier of premises that a person is authorised to enter by a warrant under section 100 or 101 is present at the time the person seeks to execute the warrant—
  - (a) the occupier must be told the person's name;
  - (b) if not a constable in uniform, the person must produce to the occupier documentary evidence that the person is a constable or authorised officer;
  - (c) the person must produce the warrant to the occupier;
  - (d) the person must supply the occupier with a copy of it.
- (3) If premises that a person is authorised to enter by a warrant under section 100 or 101 are unoccupied, or if the occupier is temporarily absent, then on leaving the premises the person must leave them as effectively secured against unauthorised entry as when the person found them.

### **103 Powers of inspection etc.**

- (1) A constable or authorised officer entering premises under section 99, or by virtue of a warrant under section 100 or 101, may do any of the following if the constable or authorised officer considers it necessary for the purpose of ascertaining whether an offence under section 95 has been committed—
  - (a) carry out inspections and examinations on the premises;
  - (b) require the production of anything on the premises, inspect it, and take and retain samples of or extracts from it;
  - (c) take possession of anything on the premises, and retain it for as long as the constable or authorised officer considers necessary for that purpose;
  - (d) require any person to give information, or afford facilities and assistance with respect to matters within the person’s control.
- (2) If by virtue of subsection (1)(c) a constable or authorised officer takes anything away from the premises, the constable or authorised officer must leave on the premises from which it was taken a statement—
  - (a) giving particulars of what has been taken and stating that the constable or officer has taken possession of it, and
  - (b) identifying the person to whom a request for the return of the property may be made.
- (3) The powers conferred by this section include the power—
  - (a) to copy documents found on the premises;
  - (b) to impose requirements as to how documents are provided (which may include requirements to provide legible copies of documents found on the premises that are stored electronically).
- (4) For this purpose, “documents” includes information recorded in any form; and references to documents found on the premises include—
  - (a) documents stored on computers or other electronic devices on the premises, and
  - (b) documents stored elsewhere that can be accessed by computers or other electronic devices on the premises.
- (5) A person is not required by this section to answer any question or produce any document which the person would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in England and Wales.

### **104 Obstruction etc. of constable or officer**

- (1) Any person who intentionally obstructs a constable or authorised officer exercising functions under sections 99 to 103 commits an offence.
- (2) Any person who without reasonable cause fails—
  - (a) to provide a constable or authorised officer with facilities that the constable or authorised officer reasonably requires for the purpose of a requirement under section 103(1), or
  - (b) to comply with a requirement under section 103(1)(b) or (d),commits an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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- (4) This section is subject to section 103(5).

#### **105 Power to make test purchases**

An authorised officer may make such purchases and arrangements, and secure the provision of such services, as the officer considers necessary for the purpose of the exercise of the local authority's functions under or by virtue of this Part.

#### **106 Retained property: appeals**

- (1) A person ("P") with an interest in anything taken away under section 103(1)(c) ("retained property") may apply by way of complaint to any magistrates' court for an order requiring it to be released, either to P or another person.
- (2) If, on an application under this section, the court is satisfied that the continued retention of the retained property is not necessary for the purpose of ascertaining whether an offence under section 95 has been committed, it may make an order requiring the release of the retained property.
- (3) An order under this section may contain whatever provision the court thinks appropriate for delaying its coming into force pending the making and determination of an appeal (including an application under section 111 of the [Magistrates' Courts Act 1980 \(c.43\)](#)).
- (4) If the court adjourns the hearing of an application under this section, it may make an order in respect of the retained property that lasts until the final hearing of the application or until any further order is made, if it considers it appropriate to do so.
- (5) Nothing in this section affects any other power of the court to make an order in respect of the retained property, including any power to make an order under section 1 of the [Police \(Property\) Act 1897 \(c.30\)](#) (power to make orders with respect to property in possession of police).

#### **107 Appropriated property: compensation**

- (1) A person ("P") with an interest in anything of which an authorised officer or a constable ("an enforcement officer") has taken possession under section 103(1)(c) ("appropriated property") may apply by way of complaint to any magistrates' court for compensation.
- (2) Subsection (3) applies if, on an application under this section, the court is satisfied that—
  - (a) P has suffered loss or damage in consequence of the enforcement officer's taking possession of the appropriated property, or retaining it, in circumstances where doing so was not necessary for the purpose of ascertaining whether an offence under section 95 had been committed, and
  - (b) the loss or damage is not attributable to the neglect or default of P.
- (3) The court may order compensation to be paid to P—
  - (a) where the enforcement officer is an authorised officer of a local authority, by the local authority, or
  - (b) where the enforcement officer is a constable, by the chief constable of the police force of which the constable is a member.

- (4) The reference in subsection (3) to a “police force” is to a police force for an area that is a police area for the purposes of section 1 of the [Police Act 1996 \(c.16\)](#).