



# Public Health (Wales) Act 2017

2017 anaw 2

## PART 4

### SPECIAL PROCEDURES

PROSPECTIVE

#### *Introduction*

#### **56 Overview of this Part**

- (1) This Part provides that certain individuals who perform special procedures (see section 57) in Wales are required to be licensed to do so by a local authority unless they are exempt (see section 60).
- (2) Section 62 makes provision for criteria that are to be met for an application for a licence to be granted.
- (3) Section 63 makes provision about the conditions to which a licence will be subject.
- (4) Sections 65 to 68 set out the procedure for applying for a licence and for revoking a licence; and section 75 provides that a local authority must maintain a register of those individuals who are licensed.
- (5) Sections 69 to 74 make provision about approval of premises at which, or a vehicle in which, a special procedure is performed.
- (6) Section 76 enables a local authority to charge fees in relation to special procedure licences and approvals of premises and vehicles.
- (7) Sections 77 to 81 make provision about notices that may be served by a local authority in the case of a breach of the requirements of this Part, about compliance with notices and about appeals.
- (8) Section 82 makes provision about offences under this Part.

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- (9) Sections 83 to 90 make general provision about the powers of local authorities to enforce the requirements of this Part, and sections 91 and 92 make provision about property retained under this Part.

PROSPECTIVE

*Meaning of special procedure*

**57 What is a special procedure?**

Each of the following is a special procedure for the purposes of this Part—

- (a) acupuncture;
- (b) body piercing;
- (c) electrolysis;
- (d) tattooing.

PROSPECTIVE

*Performance of special procedure: licensing requirement*

**58 Requirement for individual performing special procedure to be licensed**

- (1) The following requirements apply in respect of the performance of a special procedure in Wales.
- (2) An individual who performs a special procedure on someone else in the course of a business must do so under the authority of a special procedure licence, unless the individual performing the procedure is exempt from the requirement to be licensed in respect of that procedure.
- (3) An individual designated under section 61 who performs a special procedure on someone else must do so under the authority of a special procedure licence, whether or not the procedure is performed in the course of a business.
- (4) For provision about exemption from the requirement to be licensed, see section 60.

**59 General provision about special procedure licences**

- (1) A special procedure licence is a licence issued by a local authority under this Part.
- (2) For the purposes of this Part, a special procedure licence authorises the performance in Wales by the licence holder of the special procedure (or those special procedures) specified in the licence.
- (3) But a licence is not to be treated for the purposes of this Part as authorising the performance of a special procedure at premises or in a vehicle in Wales either occupied by, or to any extent under the management or control—
  - (a) of the individual performing the procedure (“P”), or

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- (b) where P performs the procedure under a contract of service or apprenticeship, or a contract for services with another person (“E”), of E, unless the conditions in subsection (4) are met.
- (4) The conditions are that the premises or vehicle—
  - (a) are identified in the licence, and
  - (b) are approved under section 70 in respect of the procedure.
- (5) But subsection (3) does not apply if, by virtue of regulations under section 69(8), the requirement in section 69(2) (procedure to be carried on only in approved premises or vehicle) does not apply in respect of the premises or vehicle concerned.
- (6) The period during which a special procedure licence authorises the performance of a special procedure is to be specified in the licence, and must be either—
  - (a) a period of no more than seven days, beginning with a date specified in the licence, or
  - (b) a period of three years, beginning with the date of the issue of the licence.
- (7) For provision about applications for special procedure licences, and about varying, renewing and revoking special procedure licences, see Schedule 3.
- (8) In this Part—
  - (a) references to the licence period, in relation to a special procedure licence, are to the period during which the licence authorises the performance of a special procedure;
  - (b) references to the licence holder, in relation to a special procedure licence, are to the individual to whom the licence is issued;
  - (c) references to a temporary licence are to a licence that authorises the performance of a special procedure for a period of no more than seven days.

PROSPECTIVE

### *Exemption from requirement to be licensed*

#### **60 Exempted individuals**

- (1) An individual who is a member of a profession within subsection (2) is to be treated as being exempt from the requirement to be licensed in respect of each special procedure other than any special procedure that is specified for this purpose in or under regulations in respect of members of that profession.
- (2) A profession within this subsection is one that is regulated by a body mentioned in paragraphs (a) to (ga) of section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c.17).
- (3) Regulations may provide that an individual—
  - (a) who is a member of a profession that is not within subsection (2) but which is specified in or under the regulations, or who is a worker of a description specified in or under the regulations, and
  - (b) who is registered, in the capacity of a member of that profession or a worker of that description, in a qualifying register,

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is to be treated as being exempt from the requirement to be licensed in respect of whatever special procedure is specified for this purpose, in or under the regulations, in respect of members of that profession or workers of that description.

- (4) Each of the following is a qualifying register—
- (a) a register maintained by the Health and Care Professions Council that is specified in or under regulations;
  - (b) a voluntary register that is—
    - (i) accredited by the Professional Standards Authority for Health and Social Care under section 25G of the National Health Service Reform and Health Care Professions Act 2002 (c.17), and
    - (ii) specified in or under regulations.
- (5) Regulations under this section may make different provision for different purposes including (among other things) in respect of different descriptions of individual.

PROSPECTIVE

### *Designation for purposes of licensing requirement*

#### **61 Designation of individual for the purposes of section 58(3)**

- (1) If the condition in subsection (2) is met, a local authority may give notice under this subsection to an individual (“P”), designating P for the purposes of section 58(3) in respect of a special procedure specified in the notice.
- (2) The condition is that the authority is satisfied that—
- (a) P is likely to perform the procedure on someone else in Wales,
  - (b) the procedure as likely to be so performed by P presents or could present significant risk of harm to human health, and
  - (c) in order to remove or reduce that risk, it is appropriate to subject P to the requirement in section 58(3).
- (3) Notice under subsection (1) must—
- (a) explain why the authority has decided to designate P,
  - (b) specify the date beginning with which the designation is to take effect, and
  - (c) prohibit P from performing the special procedure in question, as from the beginning of that date, otherwise than under the authority of a special procedure licence.
- (4) The notice must also state—
- (a) that P may appeal under paragraph 18 of Schedule 3 against the decision, and
  - (b) the period within which an appeal may be brought.
- (5) The date specified under subsection (3)(b) may be the date of the notice, or a subsequent date.
- (6) References in this Part to a special procedure in respect of which an individual is designated are to the procedure specified in the notice under this section designating the individual.

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- (7) A local authority may withdraw a designation under subsection (1).
- (8) If a local authority withdraws the designation of an individual under subsection (1), it must give the individual notice of this, specifying—
  - (a) the reasons for the withdrawal;
  - (b) the date with the expiry of which the withdrawal is to take effect.
- (9) If a designation of an individual under subsection (1) in respect of a special procedure is withdrawn, the prohibition imposed under subsection (3)(c) in respect of that procedure ceases to have effect with the expiry of the date specified under subsection (8)(b).

PROSPECTIVE

### *Licensing criteria and mandatory licensing conditions*

#### **62 Licensing criteria**

- (1) Regulations must set out criteria that must be met on an application by an individual (an “applicant”) for a special procedure licence in order for the application to be granted (“licensing criteria”).
- (2) The licensing criteria specified in the regulations must be such as to require the applicant to demonstrate knowledge of—
  - (a) infection control and first aid, in the context of the special procedure to which the application relates;
  - (b) duties imposed, under or by virtue of this Part, on a person authorised by a special procedure licence to perform the special procedure to which the application relates.
- (3) The licensing criteria may also (among other things) relate to—
  - (a) an individual's eligibility for a licence (including by reference to, among other things, standards of competence);
  - (b) the premises or vehicle at or in which the performance of a special procedure is to be authorised, or at or in which equipment or material used in a special procedure is to be stored or prepared (including, among other things, facilities available there and standards of hygiene);
  - (c) equipment to be used in, or in connection with, the performance of a special procedure.
- (4) Regulations may require a local authority not to issue or renew a licence unless premises or a vehicle identified in the application have been inspected in accordance with the regulations for the purpose of determining compliance with licensing criteria.
- (5) 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

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a special procedure is performed, the duration of any period during which a special procedure is performed, 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).

### **63 Mandatory licensing conditions**

- (1) Regulations must set out mandatory licensing conditions that are to apply to special procedure licences.
- (2) The mandatory licensing conditions specified in the regulations must include conditions imposing requirements in connection with—
  - (a) the verification of the age of an individual on whom a special procedure is to be performed;
  - (b) infection control, standards of hygiene, and first aid;
  - (c) consultation to be carried out before and after a special procedure is performed;
  - (d) record keeping.
- (3) The conditions specified in the regulations must also include a condition prohibiting the performance of a special procedure in circumstances where the individual on whom the procedure would otherwise be performed is, or appears to be, intoxicated, whether by virtue of drink, drugs or any other means.
- (4) Mandatory licensing conditions may also make further provision relating to (among other things)—
  - (a) the premises or vehicle at or in which a special procedure is to be performed, or at or in which equipment or material used in a special procedure is to be stored or prepared (including, among other things, facilities and equipment available there, and cleaning and maintenance);
  - (b) the way in which a special procedure is to be performed (including by reference to, among other things, equipment used in, or in connection with, its performance, and protective clothing);
  - (c) standards of competence relevant to performing a special procedure (including standards specified by reference to, among other things, qualifications or experience), or performing a special procedure upon a specified part of an individual's body;
  - (d) information to be provided by a licence holder (whether by display or otherwise), and to a licence holder, before and after a special procedure is performed;
  - (e) displaying a licence;
  - (f) information to be provided to a local authority in the case of the conviction of a licence holder for a relevant offence;
  - (g) circumstances in which an application for variation of a licence is to be made;
  - (h) the return of a licence, on its expiry, to the authority by which it was issued.
- (5) 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;

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- (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, the duration of any period during which a special procedure is performed, 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).
- (6) Each special procedure licence is to be subject to the applicable mandatory licensing conditions.
- (7) The applicable mandatory licensing conditions, in relation to a special procedure licence, are the mandatory licensing conditions applying in respect of the licence concerned as at the date of its issue under this Part.

#### **64 Consultation about licensing criteria and mandatory licensing conditions**

Before making regulations under section 62 or 63, the Welsh Ministers must—

- (a) consider whether there are persons who appear to be representative of the interests of those likely to be affected by the regulations (“representative persons”), and
- (b) carry out consultation with any representative persons whom the Welsh Ministers consider it appropriate to consult.

PROSPECTIVE

#### *Issuing a special procedure licence*

#### **65 Mandatory grant or refusal of application for special procedure licence**

- (1) This section applies where an application for the issue of a special procedure licence authorising the performance of a special procedure is made to a local authority in accordance with Schedule 3.
- (2) If the authority is not satisfied that all of the applicable licensing criteria are met in respect of the performance of the procedure, on the basis specified in the application and at or in any premises or vehicle specified in the application, the authority must give the applicant notice that the application is refused so far as it relates to the performance of that procedure on that basis and at or in the premises or vehicle.
- (3) If the authority is satisfied that all of the applicable licensing criteria are met in respect of the performance of the procedure, on the basis specified in the application and at or in any premises or vehicle specified in the application, the authority must issue a special procedure licence to the applicant authorising the performance of the procedure on that basis and at or in the premises or vehicle.
- (4) The applicable licensing criteria, in relation to a special procedure specified in an application, are the licensing criteria applying to the performance of the procedure on the basis specified in the application.

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## **66 Discretion to grant application for special procedure licence**

- (1) The requirement to issue a special procedure licence in section 65(3) does not apply in the case of an applicant who has been convicted of a relevant offence.
- (2) For the purpose of determining whether an applicant has been convicted of a relevant offence, a conviction is to be taken to include a conviction by or before a court outside England and Wales; and references in this Part to a conviction, or to a person's having been convicted of an offence, are to be interpreted accordingly.
- (3) If the local authority is satisfied as described in section 65(3) in respect of an application, but the applicant has been convicted of a relevant offence, the authority must decide whether the applicant's fitness to perform a procedure to which the application relates has been called into question to such an extent that it would be inappropriate to issue the licence in respect of the performance of that procedure.
- (4) In reaching its decision, the authority must have regard to—
  - (a) the nature and circumstances of the offence, and
  - (b) guidance issued by the Welsh Ministers under subsection (11).
- (5) If the local authority decides that the applicant's fitness has not been called into question as described in subsection (3) in respect of the performance of a procedure specified in the application, it must issue the licence in respect of the performance of that procedure.
- (6) If the local authority decides that the applicant's fitness has been called into question as described in subsection (3) in respect of the performance of a procedure specified in the application—
  - (a) it must not issue the licence in respect of the performance of that procedure, and
  - (b) it must give notice to the applicant that the application is refused so far as it relates to the performance of that procedure.
- (7) But subsection (6) is subject to the requirements set out in paragraphs 15 and 16 of Schedule 3.
- (8) For the purposes of this Part, each of the following is a relevant offence—
  - (a) an offence under this Part or under Part 5 (intimate piercing);
  - (b) an offence (whether under the law of England and Wales or elsewhere) that—
    - (i) involves violence,
    - (ii) is of a sexual nature, or relates to sexual material or images,
    - (iii) consists of tattooing a child under the age of 18,
    - (iv) relates to health and safety at work, or
    - (v) consists of a failure to comply with a requirement of a scheme for licensing or otherwise permitting or regulating the performance of an activity which is a special procedure for the purposes of this Act.
- (9) But a conviction for a relevant offence is to be disregarded for the purposes of this Part if it is spent for the purposes of the Rehabilitation of Offenders Act 1974 (c.53).
- (10) Regulations may amend subsection (8) by adding, varying or removing a description of offence.



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- (11) The Welsh Ministers must give guidance to local authorities about matters to be taken into account in deciding whether, and, if so, to what extent, an applicant's fitness to perform a special procedure has been called into question.

## **67 Grant or refusal of application for renewal**

Sections 65, 66 and 68 apply for the purposes of an application to renew a special procedure licence as if that application were an application for the issue of a licence.

PROSPECTIVE

### *Revoking a special procedure licence*

## **68 Revocation of special procedure licence**

- (1) If a local authority is satisfied that the conditions in subsection (2), (3) or (4) are met, it may give notice to a licence holder—
- (a) revoking a special procedure licence issued by it to the licence holder, or
  - (b) revoking a special procedure licence issued by it to the licence holder in so far as it authorises the performance of a particular special procedure.
- (2) The conditions are—
- (a) that the licence holder has failed to comply with an applicable mandatory licensing condition, and
  - (b) that the non-compliance presents, or could present, significant risk of harm to human health.
- (3) The conditions are—
- (a) that the licence holder has been convicted of an offence that is a relevant offence (and which was a relevant offence as at the date on which the licence in question was issued),
  - (b) that the licence was issued to the licence holder without regard having been had by the local authority to the nature and circumstances of that offence, as described in section 66, either because the local authority was unaware of the conviction, or because the conviction did not precede the issue of the licence, and
  - (c) that, had the authority had regard to the nature and circumstances of that offence, as described in section 66, for the purposes of the issue of the licence, the licence would either not have been issued at all (in the case of revocation as described in subsection (1)(a)), or would not have been issued in so far as it relates to the performance of a particular procedure (in the case of revocation as described in subsection (1)(b) in respect of the performance of that procedure).
- (4) The conditions are—
- (a) that the licence holder made a statement that was false or misleading in connection with an application for the issue, variation or renewal of a special procedure licence, and

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- (b) had the authority known that the statement was false or misleading, the licence would either not have been issued at all (in the case of revocation as described in subsection (1)(a)), or would not have been issued in so far as it relates to the performance of a particular procedure (in the case of revocation as described in subsection (1)(b)).
- (5) A 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.
- (6) For the purposes of subsection (5)(b) and (c) above, an appeal is brought under Schedule 3 if it is brought within the period provided for in that Schedule for bringing an appeal of the type concerned.
- (7) For provision about the procedure for revocations, see Schedule 3.

PROSPECTIVE

*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

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- (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.
- (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;

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- (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.
- (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;

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- (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).
- (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;

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- (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)).

PROSPECTIVE

*Register of special procedure licences and approved premises and vehicles*

#### **75 Duty to maintain register of special procedure licences and approved premises and vehicles**

- (1) A local authority must maintain and publish a register of—
  - (a) the special procedure licences issued by it that have not yet ceased to have effect, and
  - (b) the premises and vehicles currently approved by it under section 70.
- (2) Each entry in the register in respect of a licence must record—
  - (a) the name of the licence holder;
  - (b) the date on which the licence was issued;
  - (c) the procedure the performance of which is authorised by the licence;
  - (d) the licence period;
  - (e) in the case of a licence authorising the performance of a procedure at premises within section 59(3), the address of the premises at which the performance of the procedure is authorised;

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- (f) in the case of a licence authorising the performance of a procedure in a vehicle within section 59(3) that has a registration number, the registration number of the vehicle;
  - (g) in the case of a licence authorising the performance of a procedure in a vehicle within section 59(3) that does not have a registration number, whatever identifying details of the vehicle the authority considers appropriate.
- (3) Each entry in the register in respect of approved premises or a vehicle must record—
- (a) the name of the person on whose application the approval was granted;
  - (b) in the case of an entry in respect of premises, the address of the premises;
  - (c) in the case of an entry in respect of a vehicle that has a registration number, the registration number of the vehicle;
  - (d) in the case of an entry in respect of a vehicle that does not have a registration number, whatever identifying details of the vehicle the authority considers appropriate;
  - (e) the procedure in respect of which the approval applies;
  - (f) the date on which the approval was granted;
  - (g) the duration of the approval.
- (4) The register may also include any other information that the authority maintaining it considers appropriate.
- (5) The Welsh Ministers may arrange for the duties imposed on local authorities by this section to be discharged by means of a central register kept by a local authority appointed pursuant to the arrangements.
- (6) The Welsh Ministers may require local authorities to participate in and contribute towards the cost of any arrangements made under subsection (5).
- (7) The requirements that may be imposed on an authority under subsection (6) may include (among other things) a requirement to share information with the authority appointed to keep the central register.
- (8) For the purposes of this section, a “central register” is a register covering the areas of each local authority.

PROSPECTIVE

### *Fees*

#### **76 Fees**

- (1) A local authority that has issued a special procedure licence may charge the licence holder a fee, either periodically or otherwise, for so long as the licence continues to have effect.
- (2) A local authority that has approved premises or a vehicle under section 70 may charge the person on whose application the approval was granted a fee, either periodically or otherwise, for so long as the approval continues to have effect.

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- (3) The amount of a fee charged by a local authority under this section is to be determined by the authority, having regard to the costs incurred or expected to be incurred by the authority in connection with this Part.
- (4) Regulations may make provision about the way in which (subject to subsection (3)) a local authority is to determine the amount of the fee.
- (5) Regulations may make other provision in respect of fees charged under this section, including (among other things) in connection with—
  - (a) the way in which a fee is to be paid;
  - (b) repayment of a fee (or a proportion of it) in cases of overpayment;
  - (c) recovery of a fee due to an authority and unpaid.

PROSPECTIVE

### *Stop notices*

#### **77 Stop notices**

- (1) This section applies if a local authority is satisfied—
  - (a) that an individual is performing a special procedure in the authority's area in breach of section 58(2) or (3) (requirement to be licensed), or
  - (b) that a person is carrying on a business, in the course of which a special procedure is performed in its area, in breach of the requirement in section 69(2) (approval requirement).
- (2) The authority may give notice under this section to that individual or person (who is referred to in this section as “P”).
- (3) Notice given under this section is referred to in this Part as a stop notice.
- (4) A stop notice must state that the local authority is satisfied that P is in breach of (as the case may be) section 58(2) or (3) or the requirement in section 69(2), and—
  - (a) in a case where the local authority is satisfied as mentioned in subsection (1) (a), prohibit the performance of the procedure concerned by P anywhere in Wales, as from a date specified in the notice, otherwise than under the authority of a special procedure licence;
  - (b) in a case where the local authority is satisfied as mentioned in subsection (1) (b), prohibit the performance anywhere in Wales of the special procedure concerned in the course of the business carried on by P, as from a date specified in the notice, otherwise than at premises or in a vehicle approved under section 70.
- (5) A stop 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.



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PROSPECTIVE

### *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.
- (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

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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.

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## **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.

PROSPECTIVE

### *Appeals against stop notices and remedial action notices*

## **81 Appeals**

- (1) A person (“P”) may appeal to a magistrates' court—
  - (a) against notice given to P under section 77;
  - (b) against notice given to P under section 78 or 79;
  - (c) if P is given notice under section 80(5), against the refusal of P's application for a completion certificate.
- (2) An appeal is to be made within the period of 21 days beginning with the date of the notice concerned.
- (3) An appeal is to be by way of complaint for an order, and in accordance with the Magistrates' Courts Act 1980 (c.43).
- (4) For the purposes of the time limit for making an appeal, the making of the complaint is to be treated as the making of the appeal.
- (5) On an appeal, the magistrates' court may—
  - (a) confirm the notice or refusal;
  - (b) in the case of an appeal against a notice given to P under section 77, 78 or 79, quash or vary the notice;

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- (c) in the case of an appeal against a refusal of an application for a completion certificate, quash the refusal;
  - (d) in any case, remit the case to the local authority to dispose of in accordance with directions given by the court;
- and may make such order as to costs as it thinks fit.
- (6) Where on an appeal under this section a magistrates' court quashes or varies a notice given to P by a local authority, or quashes the refusal of an application for a completion certificate, it may order the local authority to compensate P for loss suffered as the result of the service of the notice or (as the case may be) the refusal.
  - (7) An appeal by either party against the decision of a magistrates' court on an appeal under this section may be brought to the Crown Court.
  - (8) On an appeal to the Crown Court, the Crown Court may—
    - (a) confirm, vary or reverse the magistrates' court's decision;
    - (b) remit the case to the magistrates' court or the local authority to dispose of in accordance with directions given by the Crown Court.
  - (9) The bringing of an appeal under this section against a notice given by a local authority does not suspend the effect of the notice.

PROSPECTIVE

### *Offences relating to licensing and approval system*

## **82 Offences**

- (1) A person who contravenes section 58 (licensing requirement) commits an offence.
- (2) A person who contravenes a prohibition specified, under section 61(3)(c), in notice given under section 61(1) (designation of person for purposes of section 58(3)) commits an offence.
- (3) A person who, without reasonable cause, contravenes the requirement in section 69(2) (approval requirement) commits an offence.
- (4) A person who, without reasonable cause, contravenes a notice under section 77 (stop notices) commits an offence.
- (5) A person who, without reasonable cause, contravenes a notice under section 78 (licence holder remedial action notices) commits an offence.
- (6) A person who, without reasonable cause, contravenes a notice under section 79 (premises remedial action notice) commits an offence.
- (7) A person who, in an application for the issue, variation or renewal of a special procedure licence or for approval of premises or a vehicle under section 70—
  - (a) makes a statement that is false or misleading, and
  - (b) either knows, or is reckless as to whether, it is false or misleading, commits an offence.

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- (8) In subsection (7), “false or misleading” means false or misleading in a material particular.
- (9) A person who commits an offence under this section is liable on summary conviction to a fine.

PROSPECTIVE

### *Enforcement*

#### **83 Authorised officers**

References in sections 84 to 92 to an authorised officer are to any person (whether or not an officer of the local authority) authorised to exercise functions of a local authority under or by virtue of this Part, either—

- (a) by the authority, or
- (b) by any person with whom the authority has entered into arrangements for that person to exercise functions of the authority under this Part.

#### **84 Powers of entry etc.**

- (1) An authorised officer may, if the officer considers it necessary for the purpose of the exercise of the local authority's functions under or by virtue of this Part, at any reasonable time enter any premises that are within subsection (4).
- (2) But this does not apply in relation to premises used wholly or mainly as a dwelling.
- (3) An authorised officer may not enter premises by force under this section.
- (4) Premises are within this subsection if the officer has reason to believe that—
  - (a) a special procedure has been, is being, or is likely to be performed at the premises, or
  - (b) material or equipment intended for use in, or in connection with, the performance of a special procedure is stored or prepared at the premises.
- (5) An authorised officer must, if asked to do so, before entering premises under this section show evidence of the authorisation referred to in section 83.
- (6) This section applies to a vehicle as if it were premises.

#### **85 Warrant to enter dwelling**

- (1) A justice of the peace may exercise the power in subsection (3) if satisfied on sworn information in writing that, for the purpose of the exercise of a local authority's functions under or by virtue of this Part, it is necessary to enter premises that—
  - (a) are used wholly or mainly as a dwelling, but
  - (b) are within subsection (2).
- (2) Premises are within this subsection if there is reason to believe that—
  - (a) a special procedure has been, is being, or is likely to be performed at the premises, or

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- (b) material or equipment intended for use in, or in connection with, the performance of a special procedure is stored or prepared at the premises.
- (3) The justice may issue a warrant authorising an authorised officer of the authority to enter the premises, if need be by force.
- (4) The warrant continues in force until the end of the period of 28 days beginning with the date on which it was issued.
- (5) This section applies to a vehicle as if it were premises.

## **86 Warrant to enter other premises**

- (1) A justice of the peace may exercise the power in subsection (2) if satisfied on sworn information in writing—
  - (a) that, for the purpose of the exercise of a local authority's functions under or by virtue of this Part, it is necessary to enter premises that are not used wholly or mainly as a dwelling, and
  - (b) that a requirement set out in one or more of subsections (3) to (6) is met.
- (2) The justice may issue a warrant authorising an authorised officer of the authority 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 local authority 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 purpose 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.
- (8) This section applies to a vehicle as if it were premises.

## **87 Supplementary provision about powers of entry**

- (1) An authorised officer entering premises by virtue of section 84, or by virtue of a warrant under section 85 or 86, may take such other persons and such equipment as the officer considers appropriate.
- (2) If the occupier of premises that an authorised officer is authorised to enter by a warrant under section 85 or 86 is present at the time the authorised officer seeks to execute the warrant—
  - (a) the occupier must be told the officer's name;

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- (b) the officer must produce to the occupier documentary evidence that the officer is an authorised officer;
  - (c) the officer must produce the warrant to the occupier;
  - (d) the officer must supply the occupier with a copy of it.
- (3) If premises that an authorised officer is authorised to enter by a warrant under section 85 or 86 are unoccupied, or if the occupier is temporarily absent, then on leaving the premises the officer must leave them as effectively secured against unauthorised entry as when the officer found them.
- (4) This section applies to a vehicle as if it were premises.

## **88 Powers of inspection etc.**

- (1) An authorised officer entering premises under section 84, or by virtue of a warrant under section 85 or 86, may do any of the following if the officer considers it necessary for the purpose of the exercise of the authority's functions under or by virtue of this Part—
- (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 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 the authorised officer considers it necessary for the purpose of the exercise of the local authority's functions under or by virtue of this Part, the officer may arrange for anything produced under subsection (1)(b), or of which the officer has taken possession under subsection (1)(c), to be analysed.
- (3) If by virtue of subsection (1)(c) the authorised officer takes anything away from the premises, the 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 officer has taken possession of it, and
  - (b) identifying the person to whom a request for the return of the property may be made.
- (4) 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).
- (5) 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.

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- (6) 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.
- (7) This section applies to a vehicle as if it were premises.

## **89 Obstruction etc. of officers**

- (1) Any person who intentionally obstructs an authorised officer exercising functions under sections 84 to 88 commits an offence.
- (2) Any person who without reasonable cause fails—
  - (a) to provide an authorised officer with facilities that the authorised officer reasonably requires for the purpose of a requirement under section 88(1), or
  - (b) to comply with a requirement under section 88(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.
- (4) This section is subject to section 88(6).

## **90 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.

## **91 Retained property: appeals**

- (1) A person (“P”) with an interest in anything taken away under section 88(1)(c) by an authorised officer of a local authority (“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 the exercise of the authority's functions under or by virtue of this Part, 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).



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## **92 Appropriated property: compensation**

- (1) A person (“P”) with an interest in anything of which an authorised officer of a local authority has taken possession under section 88(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 authorised officer’s taking possession of the appropriated property, or retaining it, in circumstances where doing so was not necessary for the purpose of the exercise of the local authority’s functions under or by virtue of this Part, and
  - (b) the loss or damage is not attributable to the neglect or default of P.
- (3) The court may order the local authority to pay compensation to P.

PROSPECTIVE

### *Amendment of meaning of special procedure*

## **93 Power to add or remove special procedures**

- (1) Regulations may amend section 57 by—
  - (a) adding or removing a type or description of procedure to or from the list in that section, or
  - (b) varying a reference in that section to a type or description of procedure.
- (2) For this purpose a procedure may be described by reference to (among other things)—
  - (a) the description of individual by whom it is carried out;
  - (b) the description of individual on whom it is carried out.
- (3) The power to add a type or description of procedure to the list in section 57 by regulations under this section is to be exercised in respect of a procedure only if the Welsh Ministers consider—
  - (a) that the procedure is one that is capable of being performed for aesthetic purposes, or for purposes that the Welsh Ministers consider to be therapeutic, and
  - (b) that its performance for those purposes is capable of causing harm to human health.
- (4) Before making regulations under this section, the Welsh Ministers must—
  - (a) consider whether there are persons who appear to be representative of the interests of those likely to be affected by the regulations (“representative persons”), and
  - (b) carry out consultation with any representative persons whom the Welsh Ministers consider it appropriate to consult.
- (5) Regulations under this section may make amendments to this Part that are consequential upon the amendment to section 57 effected by the regulations.

*Status: This version of this part contains provisions that are prospective.*

**Changes to legislation:** Public Health (Wales) Act 2017, PART 4 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## Interpretation

### 94 Interpretation of this Part

(1) In this Part—

“acupuncture” (*“aciwbigo”*) means the insertion of needles into an individual's tissue for remedial or therapeutic purposes, but excluding the insertion of needles into tissue for the purpose of injecting any substance;

“applicable mandatory licensing conditions” (*“amodau trwyddedu mandadol cymwys”*) has the meaning given in section 63(7);

“approval certificate” (*“tystysgrif gymeradwyo”*) has the meaning given in section 70;

“authorised officer” (*“swyddog awdurdodedig”*) has the meaning given in section 83;

“body piercing” (*“tyllu'r corff”*) means the perforation of an individual's skin or mucous membrane, with a view to enabling—

- (a) jewellery, or
- (b) an object of a description prescribed in or under regulations,

to be attached to, implanted in, or removed from the individual's body;

“completion certificate” (*“tystysgrif gwblhau”*) has the meaning given in section 80;

“electrolysis” (*“electrolysis”*) means the removal of an individual's body hair by passing an electric current through the root by means of an inserted needle or probe;

“licence holder” (*“deiliad trwydded”*) has the meaning given in section 59(8);

“licence period” (*“cyfnod y drwydded”*) has the meaning given in section 59(8);

“licensing criteria” (*“meini prawf trwyddedu”*) has the meaning given in section 62;

“mandatory approval conditions” (*“amodau cymeradwyo mandadol”*) has the meaning given in section 70;

“premises” (*“mangre”*) includes any place or moveable facility (but does not include a vehicle);

“relevant offence” (*“trosedd berthnasol”*) means an offence listed in section 66(8);

“special procedure” (*“triniaeth arbennig”*) has the meaning given in section 57;

“special procedure licence” (*“trwydded triniaeth arbennig”*) has the meaning given in section 59;

“tattooing” (*“tatwio”*) means the insertion into punctures made in an individual's skin, or mucous membrane, of any colouring material designed to leave a semi-permanent or permanent mark (including micro pigmentation);

“temporary licence” (*“trwydded dros dro”*) has the meaning given in section 59;

“vehicle” (*“cerbyd”*) includes—

- (a) a trailer, a semi-trailer, or other thing that is designed or adapted to be towed by another vehicle;

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- (b) anything on a vehicle;
  - (c) a detachable part of a vehicle;
  - (d) a container or other structure designed or adapted to be carried by or on another vehicle.
- (2) For the purposes of the definition of “body piercing” in subsection (1), the reference to perforating an individual's skin or mucous membrane includes a reference to breaching the integrity of the skin or mucous membrane in any way, including (among other things) by way of puncture or incision.
- (3) Regulations under subsection (1) may prescribe an object or description of object by reference to (among other things) the part of the body on which the perforation is performed.
- (4) For the purposes of this Part—
  - (a) a special procedure is performed on a fixed site basis if it is performed at premises that—
    - (i) are either occupied by, or to any extent under the management or control of, the individual performing the procedure (“P”), or
    - (ii) where P performs the procedure under a contract of service or apprenticeship, or a contract for services, with another person (“E”), are either occupied by, or to any extent under the management or control of, E;
  - (b) a special procedure is performed on a mobile basis if it is performed in a vehicle;
  - (c) a special procedure is performed on a peripatetic basis if it is performed at various different premises that are not within paragraph (a)(i) or (ii);
  - (d) a special procedure is performed on a temporary basis if—
    - (i) it is performed in the course of an entertainment, exhibition or other event, to which members of the public have access, and
    - (ii) the period during which it is performed at that entertainment, exhibition or event does not exceed seven days.
- (5) In this Part, references to harm to human health include (among other things) references to—
  - (a) harm to an individual's physical health arising through (among other things)—
    - (i) physical injury,
    - (ii) exposure to any form of infection or contamination, or
    - (iii) engendering or increasing susceptibility to any form of infection or contamination;
  - (b) harm to an individual's mental health.

#### Commencement Information

**II** S. 94 in force at 1.2.2018 by S.I. 2018/1, art. 2(b)

**Status:**

This version of this part contains provisions that are prospective.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/949, art. 3 by [S.I. 2017/967 art. 2](#)