
EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates the activity of the carrying on of a business which provides skin piercing or tattooing as an activity for which a licence under the Civic Government (Scotland) Act 1982 (“the 1982 Act”) shall be required in terms of section 44(1)(b) of that Act (article 2). Skin piercing and tattooing are defined in article 1(2). An exemption from the licensing regime is provided where a registered medical practitioner carries out the activity in certain circumstances (article 2).

The licensing provisions at Part I of the 1982 Act (including Schedule 1) will apply to such licences with the following modifications as set out in the Schedule to the Order—

- (a) allowing local authorities 12 months (rather than 6) to determine licence applications (paragraph 2 of the Schedule);
- (b) granting a power of search of unlicensed premises to officers of the licensing authority (paragraph 3 of the Schedule);
- (c) requiring the licensing authority to inspect the premises prior to making a final decision on the application (paragraph 4 of the Schedule);
- (d) allowing a licence to be granted where the activity is to be carried out wholly or mainly in premises but also where the activity is not restricted to premises. Paragraph 5 of the Schedule sets certain pre-conditions which must be met before the licensing authority grant the application where the activity is to be carried out wholly or mainly in premises. Paragraph 5 further provides that certain mandatory conditions will attach to the grant or renewal of a licence, stipulating the conditions which will be imposed in each case where the activity is to be carried out wholly or mainly in premises (new paragraph 5(2C) of Schedule 1 to the 1982 Act) or otherwise for all other licences for the activity (new paragraph 5(2D)). One of the conditions attaching to the grant of any licence is that skin piercing should not be carried out on a person under the age of 16 years unless the consent of a person with parental rights and responsibilities is obtained;
- (e) disapplying paragraph 8(3) of Schedule 1 to the 1982 Act which provides that, on the death of a licence holder, the licence shall be deemed to have been granted to his executor and will remain in force for 3 months from the death of the licence holder (paragraph 6 of the Schedule); and
- (f) providing additional definitions in Schedule 1 to the 1982 Act (paragraph 7 of the Schedule).

The Order requires the designated activity to be licensed as from 1st April 2006 but transitional provision is made where an application is made before that date for the grant of an appropriate licence (article 4). In such a case, the activity may be carried on (without a licence) until the licensing authority has made a decision on the licence and, where a decision to refuse an application is then appealed to the sheriff, until that appeal has been disposed of.