



# Public Health (Wales) Act 2017

2017 anaw 2

## PART 4

### SPECIAL PROCEDURES

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.

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

*Changes to legislation: Public Health (Wales) Act 2017, Cross Heading: Issuing a special procedure licence is up to date with all changes known to be in force on or before 22 April 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*

## **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.

**Status:**

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**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](#)