



# Public Health (Wales) Act 2017

2017 anaw 2

## PART 4

### SPECIAL PROCEDURES

#### *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.

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*Status: This is the original version (as it was originally enacted).*

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- (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 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;
  - (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.