



# Public Health (Wales) Act 2017

2017 anaw 2

## PART 4

### SPECIAL PROCEDURES

#### *Issuing a special procedure licence*

#### **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—

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*Status: This is the original version (as it was originally enacted).*

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- (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.
- (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.