

**2006 No. 604**

**LICENCES AND LICENSING**

**PUBLIC HEALTH**

**The Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Amendment Order 2006**

*Made - - - - 11th December 2006*

*Coming into force in accordance with article 1*

The Scottish Ministers, in exercise of the powers conferred by section 44(1)(b) and (2) of the Civic Government (Scotland) Act 1982(a), and of all other powers enabling them in that behalf, hereby make the following Order, a draft of which has, in accordance with section 44(3) of that Act, been laid before and approved by a resolution of the Scottish Parliament:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Amendment Order 2006 and shall come into force on the day after the day on which it is made.

(2) In this Order “the 1982 Act” means the Civic Government (Scotland) Act 1982.

**Amendment of the Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006**

2.—(1) The Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006(b) shall be amended as follows.

(2) In article 1(2) (interpretation)–

(a) omit the definitions of “hospital” and “independent clinic”; and

(b) insert after the definition of “electrolysis”–

““regulated health care professional” means a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(c);”.

(3) In article 2 (licensing of activity) for sub-paragraph (b) substitute–

“(b) for the carrying on of that activity by a regulated health care professional.”.

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(a) 1982 c.45. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2006/43.

(c) 2002 c.17.

(4) In paragraph 5(b) of the Schedule (modification of paragraph 5 of Schedule 1 to the 1982 Act)–

- (a) in sub-paragraph (2A) inserted in paragraph 5 of Schedule 1 to the 1982 Act for “satisfied that the conditions in sub-paragraph (2B) below are met” substitute “satisfied that–
  - (i) in the case where the business provides only ear piercing and no other kind of skin piercing or tattooing the conditions in sub-paragraph (2BA) below are met; and
  - (ii) in all other cases the conditions in sub-paragraph (2B) below are met.”
- (b) in sub-paragraph (2B) inserted in paragraph 5 of Schedule 1 to the 1982 Act for “referred to in sub-paragraph (2A) above” substitute “referred to in sub-paragraph (2A) (ii) above”
- (c) in sub-paragraph (2B)(c)(i) inserted in paragraph 5 of Schedule 1 to the 1982 Act for “sink” substitute “wash-hand basin”;
- (d) after sub-paragraph (2B)(c) inserted in paragraph 5 of Schedule 1 to the 1982 Act, insert–
  - “(ca) there is a general purpose sink with hot and cold running water on the premises separate from the wash-hand basin required under sub-paragraph (2B)(c)(i) above.”;
- (e) in sub-paragraph (2B)(d) inserted in paragraph 5 of Schedule 1 to the 1982 Act before “the following” insert “unless only disposable instruments are used within the premises for skin piercing or tattooing.”;
- (f) after sub-paragraph (2B) inserted in paragraph 5 of Schedule 1 to the 1982 Act, insert–
  - “(2BA) The conditions referred to in sub-paragraph (2A) (i) above are that–
    - (a) a separate area with a washable chair with disposable paper sheet has been designated for the carrying out of ear piercing;
    - (b) the designated area has displayed a notice advising–
      - (i) that ear piercing will not be carried out on any person under the influence of alcohol or drugs;
      - (ii) that ear piercing will not be carried out on any child under the age of 16 unless accompanied by a person who has parental rights and responsibilities in respect of that child and who has also given their consent in writing to the ear piercing;
    - (c) the premises to be used for the purposes of carrying out ear piercing has the following facilities–
      - (i) a wash-hand basin with hot and cold running water;
      - (ii) a paper towel holder containing paper towels;
      - (iii) a soap dispenser containing soap;
      - (v) a dispenser containing alcohol solution; and
      - (vi) a waste bucket with a pedal operated lid; and
    - (d) the premises are well ventilated and illuminated.”;
- (g) in sub-paragraph (2C) inserted in paragraph 5 of Schedule 1 to the 1982 Act for “Without prejudice to the generality of sub-paragraph (2) above or the requirements of sub-paragraphs (2A) and (2B) above” substitute “Without prejudice to the generality of sub-paragraph (2) above or the requirements of sub-paragraphs (2A), (2B) and (2BA) above”;
- (h) in sub-paragraph (2C)(c) inserted in paragraph 5 of Schedule 1 to the 1982 Act after “pigment” insert “dispensed into single use pots”;
- (i) in sub-paragraph (2C)(d) inserted in paragraph 5 of Schedule 1 to 1982 Act–
  - (i) after “skin piercing” insert “(other than acupuncture)”;
  - (ii) for “vinyl or latex gloves” substitute “non latex gloves”;

- (j) after sub-paragraph (2C)(d) inserted in paragraph 5 of Schedule 1 to 1982 Act, insert–
  - “(da) subject to paragraph (db), the activity of acupuncture must be carried out by an operator who has washed their hands immediately before carrying out the activity of acupuncture on each client;
  - (db) the activity of acupuncture must be carried out by an operator wearing disposable non latex gloves that have not previously been used with another client where–
    - (a) the operator has an open lesion on their hands;
    - (b) the operator is handling items that may be contaminated with blood or other body fluids;
    - (c) the client is bleeding or has an open lesion on an exposed part of the client’s body; or
    - (d) the client is known by the operator to be infected with a blood-borne virus;”;
- (k) for sub-paragraph (2C)(e) inserted in paragraph 5 of Schedule 1 to the 1982 Act substitute–
  - “(e) a supply of the following must be maintained–
    - (i) disposable non latex gloves;
    - (ii) sterile single-use disposable needles; and
    - (iii) where tattooing is provided within the premises, disposable razors.”;
- (l) in sub-paragraph (2C)(f) inserted in paragraph 5 of Schedule 1 to the 1982 Act after “shall be” insert “sterilised, if practicable, or”;
- (m) for subparagraph (2C)(i) inserted in paragraph 5 of Schedule 1 to the 1982 Act substitute–
  - “(i) for ear piercing–
    - (i) a sterile cartridge for ear piercing; and
    - (ii) pre-sterilised jewellery supplied in packaging which indicates the part of the body for which it is intended, must be used”.
- (n) in sub-paragraph (2D) inserted in paragraph 5 of Schedule 1 to the 1982 Act omit “or the requirements of paragraphs (2A) and (2B) above.”;
- (o) in sub-paragraph (2D)(a) inserted in paragraph 5 of Schedule 1 to 1982 Act–
  - (i) for “vinyl or latex gloves” substitute “non latex gloves”; and
  - (ii) after “must” insert “, except for the activity of acupuncture,”;
- (p) after sub-paragraph (2D)(a) inserted in paragraph 5 of Schedule 1 to the 1982 Act insert–
  - “(aa) subject to paragraph (ab), the activity of acupuncture must be carried out by an operator who has washed their hands immediately before carrying out the activity of acupuncture on each client;
  - (ab) the activity of acupuncture must be carried out by an operator wearing disposable non latex gloves that have not previously been used with another client where–
    - (a) the operator has an open lesion on their hands;
    - (b) the operator is handling items that may be contaminated with blood or other body fluids;
    - (c) the client is bleeding or has open lesions on an exposed part of the client’s body; or
    - (d) the client is known by the operator to be infected with a blood-borne virus;”;
- (q) in subparagraph (2D)(b) inserted in paragraph 5 of Schedule 1 to the 1982 Act for “single use needles” substitute “sterile single use disposable needles”;

- (r) after sub-paragraph (2D)(b) inserted in paragraph 5 of Schedule 1 to the 1982 Act, insert—  
“(ba) for the purposes of tattooing, only sterile pigment dispensed into single use pots or ink pre-packed in single use vials may be used;”;
- (s) in sub-paragraph (2D)(d) inserted in paragraph 5 of Schedule 1 to the 1982 Act, after “shall be” insert “sterilised, if practicable, or”; and
- (t) for subparagraph (2D)(g) inserted in paragraph 5 of Schedule 1 to the 1982 Act substitute—  
“(g) for ear piercing—  
  - (i) a sterile cartridge for ear piercing, and
  - (ii) pre-sterilised jewellery supplied in packaging which indicates the part of the body for which it is intended,
must be used.”.

**Transitional and savings provision**

3.—(1) This Order shall apply in relation to any licence granted or renewed on or after the date of coming into force of this Order in respect of an activity designated by article 2 of the Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006(a).

(2) Subject to paragraph (3), nothing in this Order shall affect any licence granted before that date in respect of such an activity.

(3) Where an application was made before the date of coming into force of this Order in respect of an activity for which a licence is no longer required on or after that date in pursuance of the modifications made by this Order—

- (a) any licence granted before that date in respect of that activity shall cease to have effect;
- (b) where a licence has not been granted before the date, the licensing authority shall inform the applicant that an application is no longer required for that activity; and, in either case;
- (c) the licensing authority shall refund to the applicant the fee paid to the licensing authority along with the application.

*LEWIS MACDONALD*

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
11th December 2006

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(a) S.S.I. 2006/43.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006 (“the principal Order”) which designates the activity of carrying on a business which provides skin-piercing or tattooing as an activity for which a licence under the Civic Government (Scotland) Act 1982 shall be required.

Articles 2(2) and (3) of this Order amend the principal Order to provide that no licence is required for the carrying on of a business which provides skin-piercing or tattooing by a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002. Under the principal Order only the carrying on of such a business by a registered medical practitioner within a health service hospital or an independent clinic was exempt (article 2(2) and (3)(a)).

Article 2(4) of this Order amends the principal Order to amend the conditions that must be imposed by a licensing authority where granting or renewing a licence for the carrying on of a business which provides skin piercing or tattooing, including in particular amending the conditions imposed on premises which carry out ear piercing but no other skin piercing or tattooing activities.

Article 3 of this Order provides that the new provisions shall apply only in relation to any licence granted or renewed on or after the date of coming into force of this Order. Transitional provision is made in respect of applications made before the date of coming into force of this Order in respect of an activity for which a licence is no longer required on or after that date in pursuance of the modifications made by this Order.

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**PUBLIC HEALTH**

The Civic Government (Scotland) Act 1982 (Licensing of Skin  
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