

# **PUBLIC HEALTH (WALES) ACT 2017**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 4**

#### **Special Procedures**

#### ***Section 61 - Designation of individual for the purposes of section 58(3)***

106. If the local authority is satisfied that the condition in subsection (2) is met, this section enables the local authority to give notice to an individual designating them as a person requiring a special procedure licence if they intend to perform a specified special procedure.
107. The condition at subsection (2) has a number of components. These provide that the person is likely to perform the specified procedure on someone else in Wales, that the procedure as likely to be performed by the person presents or could present significant risk of harm to human health, and in order to remove or reduce that risk, it is appropriate to designate the person as needing a licence. The local authority's ability to designate the person does not rely on the special procedure being performed in the course of a business; therefore a person performing a special procedure in any circumstances and for any purpose (such as from home and not for remuneration) can be designated and therefore prohibited from performing the specified special procedure.
108. The notice provided to the individual must specify why the authority has decided to designate the individual, the date upon which the designation will take effect (which may be either the date of the notice or a subsequent date), and prohibit the individual from performing the specified special procedure unless it is under the authority of a special procedure licence. The notice must also state that the person may appeal the designation and the timescale within which an appeal may be brought. The appeal may be made to a Magistrate's Court. The appeal procedure is set out in paragraph 18 of Schedule 3 of this Act.
109. Once served the designation notice will be in place until the local authority withdraws it, thereby preventing the designated individual from performing the specified special procedure unless it is under the authority of a special procedure licence. If the individual wishes to perform a special procedure, they must apply to the local authority for a licence.
110. If the local authority withdraws the designation, the local authority must give notice to the individual. The notice must contain the reasons for the withdrawal and the date upon which the withdrawal is to take effect. Once the designation is withdrawn the prohibition on the performance of the special procedure will come to an end.