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Llywodraeth Cymru
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Consultation Document

Mandatory Licensing of Special Procedures in Wales

Part 4 of the Public Health (Wales) Act 2017

Date of issue: 25 January 2023

Action required: Responses by 19 April 2023

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

<p>Overview</p>	<p>This consultation seeks views on the principles for establishing a mandatory licensing scheme for special procedures as set out in Part 4 of the Public Health (Wales) Act 2017. The intention is to commence Part 4 of the Act and implement this licensing scheme by making various sets of regulations.</p>
<p>How to respond</p>	<p>It is requested that responses to this consultation are submitted using the enclosed questionnaire. The questionnaire may be downloaded here:</p> <p>https://www.gov.wales/mandatory-licensing-special-procedures-wales</p> <p>Responses should be submitted to:</p> <p>By email: SpecialProceduresMailbox@gov.wales</p> <p>By post: Licensing of Special Procedures Consultation</p> <p style="text-align: center;">Public Health Protection Priorities Division Welsh Government 4th Floor East Cathays Park Cardiff CF10 3NQ</p> <p>The questionnaire may also be completed online here:</p> <p>https://www.gov.wales/mandatory-licensing-special-procedures-wales</p>
<p>Further information and related documents</p>	<p>Large print, Braille and alternative language versions of this document are available on request.</p> <p>Public Health (Wales) Act 2017: http://www.legislation.gov.uk/anaw/2017/2/part/4</p> <p>This consultation document is also online:</p> <p>https://www.gov.wales/mandatory-licensing-special-procedures-wales</p>

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In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

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Ministerial foreword



I am pleased to launch this consultation on the forthcoming mandatory licensing scheme for practitioners of acupuncture, body piercing, electrolysis and tattooing in Wales.

These non-surgical aesthetic or therapeutic procedures, involving perforation of tissue, skin or mucous membrane and insertion of needles, jewellery, objects or permanent/semi-permanent ink or pigments, are capable of causing harm to human health and are defined as special procedures under the Public Health (Wales) Act 2017.

The adverse health effects associated with special procedures are well documented and continue to be reported. Poor hygiene practices result in bloodborne viral infection, bacterial skin infections, some of which result in sepsis and allergic reactions, often the outcome of insufficient consultation before the procedure is performed. These human health impacts are exacerbated by an inadequate regulatory framework.

The threat to public health around the shortcomings of the current system was evidenced by the serious outbreak of *Pseudomonas* in a Newport tattoo and body piercing establishment. That outbreak affected a considerable number of young people between the ages of 13 and 16 and saw some of them admitted to hospital with severe post-piercing infections requiring surgery and, in some cases, reconstruction. The investigation of that outbreak (testing 841 clients from the studio) cost the NHS more than £240,000. The outbreak highlighted the vulnerability of young people to these practices and also the impact of infections known to be resistant to antibiotics.

The employment of safe working practices and good infection prevention and control measures to ensure that both clients and practitioners are adequately protected at all times is essential. Current legislative controls, via a non-mandatory registration scheme, have proved to be ineffective in ensuring a consistent approach by all practitioners in Wales to operating safe working practices, or infection, prevention and control procedures. Additionally, enforcement across Wales has been found to be inconsistent. The need for a regulatory framework that applies common national licensing criteria and conditions to ensure a common enforcement approach throughout Wales, and which ensures that good standards of hygiene and infection control are always applied by all special procedures practitioners is therefore abundantly clear.

In response to the acknowledged inadequacies of the current system, and through fully implementing the powers available within Part 4 of the Act, we will introduce a compulsory national licensing scheme for practitioners of special procedures. Through this strengthened legislation we aim to make those procedures safer for citizens who

seek such services, thus providing protection from possible harms to health; ensure there is clear direction and support and also protection for practitioners providing such services; and create a robust licensing regime for Wales that will allow for consistency in enforcement by local authorities.

The key purpose of this consultation is, therefore, to seek your views on the policy proposals for the intended regulations that will underpin the effective operation of this licensing scheme. It is my aim to develop, with you as key stakeholders, regulatory proposals that are appropriate, proportionate, effective, robust and fit for purpose. We have a significant opportunity to devise and introduce a mandatory licensing scheme that will: offer protection for practitioners and citizens (as their customers); provide a robust framework for practitioners and local authorities to work within; and enable consistent and effective enforcement across Wales. I very much welcome and value your opinion and encourage you to engage in this process and submit your views on the proposals set out in this document - I look forward to hearing what you have to say on this very important matter.

This consultation will close on 19 April 2023, after which we will fully reflect on the feedback received from you. We will publish a summary of the consultation responses in early 2023. Our consideration of the feedback you provide will enable us to further shape our policy proposals and determine a preferred approach. We will set out our proposed approach via the production of draft regulations and these will be made available for your further scrutiny and consideration via a final consultation exercise mid 2023.

Eluned Morgan MS, Minister for Health and Social Services

1. Summary

- 1.1 This consultation seeks the views of stakeholders and the public on proposals to enact Part 4 and Schedule 3 of the Public Health (Wales) Act 2017 (“the Act”) which sets out the requirements for a mandatory licensing scheme for practitioners of special procedures in Wales. Special procedures are defined in the Act as: acupuncture, body piercing, electrolysis, and tattooing. There is a power in the Act to add or remove a special procedure to or from this list of four. We will be commencing this power as part of the implementation of Part 4 but will not be consulting on additional special procedures at this point.
- 1.2 Under the proposed licensing scheme, which will be operated by local authorities in Wales, special procedures practitioners will need to be licensed to perform special procedures, unless they are exempt. In addition, premises/vehicles where the licensed practitioner operates will also require approval.
- 1.3 Under the proposed licensing scheme, it will be an offence for any practitioner (unless exempt) to carry out a special procedure without a licence and for any licensed practitioner to perform any special procedures from premises or vehicles that have not been approved.
- 1.4 This consultation sets out the detail of our proposals and asks related questions. The answers you provide to these questions will be used to inform the making of regulations that are required to ensure the new scheme can operate fully. Our proposals include:
- the application process for the three-year and the seven-day (temporary) special procedure licence and premises/vehicle approval certificate including
 - the criteria required to apply for a licence and an approval certificate
 - the documentation and fee needed to accompany the application
 - approval, refusal and appeals processes
 - special procedure licence and premises/vehicle approval certificate exemptions
 - the conditions licensed practitioners and the person responsible for the premises/vehicle approval certificate are required to follow for the duration of the licence and approval
 - special considerations for special procedure licences, including trainees and apprentices, unregulated courses, minimum age of practitioners and clients, eyeball tattooing and visible tattoos and piercings
 - the definition of an ‘object’ in relation to body piercing
 - the transitional arrangements for moving between the current system and the proposed licensing scheme.
- 1.5 This document also outlines the requirements of the Act in relation to the public register, enforcement, penalties and powers of local authorities. An [Integrated Impact Assessment and a draft Regulatory Impact Assessment](#) setting out the

anticipated regulatory impact related to this consultation document have been published separately and should be read alongside this document as they form part of the consultation materials.

- 1.6 The Welsh language should be as visible as the English language, this consultation acknowledges how the principle of an “active offer” that is, providing a service in Welsh without someone having to ask for it will be an integral part of the proposed licensing scheme.
- 1.7 The Welsh Government invites responses to the consultation questions set out in this document, and a response questionnaire is provided at Annex B. The form may also be downloaded or completed online <https://www.gov.wales/mandatory-licensing-special-procedures-wales>

2. About this consultation

Current situation and why change is needed

- 2.1 At present, if an individual wishes to practise acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing or electrolysis they are required to apply to be registered with their local authority. The requirement to register is set out within Part 8 of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”). Under the 1982 Act, Welsh Government published model byelaws in respect of certain matters which govern safe hygiene practices in these types of procedures. These byelaws were available for local authorities to adopt. Committing an offence under the 1982 Act or a byelaw can result in the suspension or cancellation of a practitioner’s registration. However, in recent years, local authorities and stakeholder networks have not reported any instances of suspension or cancellation. The reality of the current situation is that anyone, with or without training or experience, can apply for registration as a special procedures practitioner and their local authority is required to grant it. In addition, where the registration scheme is in place many of those local authorities have not adopted the Welsh Government model hygiene byelaws. While these byelaws are limited in terms of providing robust infection prevention and control standards, they do enable a level of enforcement in relation to the cleanliness of premises, fittings, equipment and practitioners. Unfortunately, less than half of the local authorities who operate the registration scheme have adopted these byelaws
- 2.2 Responsible, registered special procedures practitioners who keep up to date with health and hygiene practices and have the best interests of their clients in mind are finding that they are competing with substandard businesses and practitioners, and those who seek to operate outside of the existing registration system. Under current legislation, local authorities do not have any powers to require practitioners to be trained in infection control procedures, for example. Local authorities can advise businesses and practitioners on the most basic standards of infection control but have limited powers under the 1982 Act and as a result, there is little deterrent against non-compliance.

- 2.3 While many local authorities across Wales have been trying their best to use the existing powers available to them to protect the public from infections and injury associated with poor practise, in reality, existing legislation provides local authorities with limited powers to prevent or stop poor practise.
- 2.4 The need for a regulatory framework that applies common national licensing criteria and conditions to ensure a consistent enforcement approach throughout Wales, and which ensures that good standards of hygiene and infection control are always applied by all special procedures practitioners is evidently clear. Provision was therefore made within Part 4 of the Act to establish a mandatory special procedures licensing scheme for Wales for four named special procedures: acupuncture, body piercing, electrolysis and tattooing. The Act provides a variety of regulation-making powers that will help define the detail of a new all-Wales regulatory framework for the licensing of all practitioners of those named special procedures. This scheme will also enable a local authority to approve a particular premises or vehicle so that a special procedure (or a number of special procedures) may be performed there.

The purpose of this consultation

- 2.5 This consultation document sets out our detailed proposals on:
- commencing Part 4 of the Act and how we think this mandatory licensing scheme for Wales might work; and
 - questions seeking your feedback on what we have presented here to inform the content of the necessary regulations.
- 2.6 We have set out the proposed approach for both the licence and premises/vehicle approval process from the start of the application procedure through to how a local authority should make decisions on the applications they receive, and the responsibilities that fall on the individual once they have been granted their special procedure licence and/or premises/vehicle approval.
- 2.7 Once officials have fully considered all the responses received, the draft regulations will be subject to a further consultation period, after which they will be scrutinised by the Senedd.

Who is this consultation for?

- 2.8 Section 64 of the Act requires the Welsh Ministers to consult with representative persons before making regulations about the proposed licensing criteria and mandatory licensing conditions. Furthermore, it is Welsh Government policy to run public consultations on new policies or legislation. This consultation document therefore fulfils that policy and the requirement of section 64 of the Act. We encourage as many as possible of the types of people below to respond to this consultation to secure as complete a representation of all interested parties as we can.

2.9 This consultation is aimed at:

- officers in local authorities who will be responsible for enforcing the mandatory licensing scheme and considering applications for special procedures licensing and premises/vehicle approvals
- practitioners of acupuncture, body piercing, electrolysis and tattooing – the special procedures set out in the Act
- their representative bodies
- anyone connected to the special procedures industry
- people who use the services of special procedures practitioners
- members of the public.

What we would like to know

- 2.10 In the proposals section, we have set out the elements of a licensing scheme that cover the minimum requirements under the Act, and also include elements that have been suggested through workshops and discussions with existing practitioners and local authority officers.
- 2.11 We therefore seek your views on the proposed scheme and would particularly like your views on whether there need to be any additions or adaptations made to what we have set out here. We want to make the proposed scheme as user-friendly and robust as possible for all parties involved in the application and licensing/approvals processes as well as ensuring it is sufficiently robust to protect the health of both clients and practitioners.

Acknowledgements

- 2.12 We would like to thank representative bodies, individual practitioners, the local authority Special Procedures Task and Finish Group, special procedures practitioner groups, and local authority environmental health officers who have assisted in contributing advice, guidance, evidence and constructive criticism through events, workshops and individual representations since the Act received Royal Assent in 2017. This input has been invaluable to us and enabled us to formulate the proposals we present to you in this document.

3. Legislative background: The Public Health (Wales) Act 2017

- 3.1 Part 4 (Special Procedures) of the Act makes provision for a mandatory licensing regime in Wales for individuals who wish to perform certain ‘special procedures’ listed in section 57 of the Act. The four special procedures are defined at section 94 of the Act as:
- **Acupuncture** – the insertion of needles into an individual’s tissue for remedial or therapeutic purposes but excluding the insertion of needles into tissue for the purpose of injecting any substance. The definition for acupuncture includes dry needling.

- **Body piercing** – the perforation of an individual’s skin or mucous membrane, with a view to enabling (a) jewellery, or (b) an object of a description prescribed in or under regulations, to be attached to, implanted in, or removed from the individual’s body. The reference to perforating an individual’s skin or mucous membrane in any way, includes (among other things) by way of puncture or incision.
 - **Electrolysis** – the removal of an individual’s body hair by passing an electric current through the root by means of an inserted needle or probe.
 - **Tattooing** – the insertion into punctures made in an individual’s skin, or mucous membrane, of any colouring material designed to leave a semi-permanent or permanent mark (including micropigmentation). The definition of tattooing includes all forms of semi-permanent makeup, including microblading.
- 3.2 Please note that we cannot revisit the provisions set out in the Act that set the framework for how the mandatory licensing scheme is to operate and will be enforced. There are however powers available within Part 4 of the Act to enable different regulations to be made for the provisions of Part 4 to be fully implemented, and the mandatory licensing scheme to be fully effective, by providing the detail required for the scheme to operate. A summary of the different sections of Part 4 and Schedule 3 of the Act are set out in Annex E. Responses to the questions set out in this consultation document will help inform the drafting of these regulations. We anticipate holding a further public consultation on the draft sets of regulations themselves at a later date.
- 3.3 Welsh Ministers have an additional regulation making power within the Act, which is not included for the purposes of this consultation document:
- **Power to add or remove special procedures:** Section 93 of the Act provides that regulations can be made to amend section 57 of the Act by adding or removing a type or description of special procedure to or from the list of four in that section, or by varying a reference in that section to a type or description of a procedure. This power can only be exercised if the Welsh Ministers consider that a procedure to be added is one that is capable of being performed for aesthetic or therapeutic purposes, and that its performance is capable of causing harm to human health.
- 3.4 We will be commencing this power as part of the implementation of Part 4 of the Act, but we will not be consulting on adding any further types or descriptions of special procedures at this point. We wish to establish the licensing conditions and process for the four specified special procedures before considering whether there is case to add any additional special procedures. Once the licensing system is established and operational, we are committed to running another public consultation specifically on whether this particular power should be exercised to add additional special procedures. By commencing the power in section 57, regulations may be made at a later date.

4. Proposals

General principles – Special procedure licences

4.1 A special procedure licence will be required if a person performs any of the following special procedures on someone else in the course of a business in Wales:

- acupuncture
- body piercing
- electrolysis
- tattooing.

You will need to have a licence even if you don't live in Wales.

4.2 Those persons who perform special procedures which are not in the course of business (that is, not for payment) may be designated by the local authority as requiring a licence (section 61 of the Act). This is intended to apply to people who operate from their homes, practise on friends or persons not for any charge where the local authority have concerns that the procedure presents or could present significant risk of harm to human health. Therefore, even if you are not performing special procedures in the course of a business, your local authority may require you to get a licence.

4.3 There are three types of special procedure licence that we propose will be available, depending on the circumstances of each practitioner. These are:

- **A three-year special procedure licence:** this licence will allow a named individual (the applicant) to practise a specific special procedure/s as confirmed on the licence. This type of licence will allow the named individual to carry out the procedure/s for a period of 3 years from the date the licence is issued.
- **A special procedure licence limited to no more than seven days:** this licence would be issued on a temporary basis for time-limited events, guest spots, conventions, etc where an organiser may wish to have practitioners carrying out special procedures during the course of the event. This temporary licence would be issued to a named individual (the applicant) and will allow that individual to practise a specific special procedure(s) in the designated premises, as confirmed on the licence, for no more than seven days.
- **A three-year trainee special procedure licence:** this will allow trainees and apprentices to be licensed under strict conditions to enable them to perform special procedures on other people under supervision until such a time as they qualify or can be certified as able to perform the procedure(s) unsupervised.

4.4 If a special procedures practitioner owns or operates a premises or vehicle in which they carry out their work, they will also need a premises/vehicle approval certificate as well as a special procedure licence in order to operate legally. If a

practitioner holds a special procedure licence but is an employee, or rents a chair/room in someone else's business, then they do not need to have their own premises/vehicle approval certificate but must still make sure that they only operate from an approved premises or vehicle. These circumstances are discussed below in [section 11](#).

General principles – Premises/vehicle approval certificates

- 4.5 Premises and vehicles from which the specified special procedures practitioners operate will need to be approved by the relevant local authority, and an approval certificate will be issued to the owner or person in charge of that premises/vehicle. The approval certificate will confirm the specific procedures that are permitted to be performed at/from those approved premises/vehicles.
- 4.6 There are two types of approval certificates that we propose will be available in relations to premises and vehicles. These are:
- **A three- year premises/vehicle approval certificate:** this will be required for all premises/vehicle from which any of the specified special procedures will be performed by licensed practitioners. The approval certificate will be issued to the person responsible for a business at a premises – this could be the owner, manager, or a practitioner. This will apply whether the premises is purpose built, self-contained accommodation within a domestic premises or a specific business premises at which the special procedures are performed. The person responsible for the business will be the applicant for this type of certificate. If the business owner/operator employs practitioners or rents chairs to practitioners, then they must obtain a premises approval certificate and ensure that any practitioner using the premises has a personal special procedure licence. The approval certificate allows for a vehicle to be approved for special procedures, as a vehicle from which special procedures will be allowed to be performed. The vehicle will be treated as if it were a fixed premises (like a shop), to allow for those licensed practitioners who operate a mobile service.
 - **A premises/vehicle approval certificate limited to no more than seven days:** this will be issued for temporary events at places such as venues that host exhibitions, events and conventions where licensed special procedures practitioners will be carrying out special procedures during the course of an event. The venue is therefore to be treated as the premises at which special procedures are to be performed in the course of a business, and as such must therefore be approved, and an approval certificate issued. The certificate will be valid for no more than seven days and will be issued to the organiser of the event who will be classed as the individual who is carrying on a business in the course of which special procedures are being performed. The practitioners themselves will still need to have their own personal special procedure licences in order to operate at the event, either a three-year certificate, or a time-limited special procedure licence if, for example, they were visiting Wales for the event. Vehicles and temporary structures may also be approved for time-limited approval certificates, for example, for festivals

and other outdoor events where licensed practitioners intend to operate from their vehicle or temporary structure.

- 4.7 All practitioners will need a special procedure licence and all premises or vehicles in which special procedures are performed in will need a special procedures premises/vehicles approval certificate in order to operate legally.

General Principles – Forms for the mandatory licensing scheme

- 4.8 It is an essential part of the mandatory licensing scheme that all application materials are consistent in form and content for all 22 Welsh local authorities.
- 4.9 The Act provides some of the detail around what certain applications for the scheme must include. For example, an application for a special procedure licence must include certain information (as set out in paragraphs 3 and 4 of Schedule 3 of the Act). In addition, in respect of an application for a renewal or variation of a licence, the Act states that an application is to be made in whatever way and include whatever information the local authority requires.
- 4.10 In addition, the Welsh Ministers have certain regulation making powers in respect of the form and content of the certificates and the way in which applications are made.
- 4.11 **We are proposing** to make regulations to:
- Mandate the form and content of the special procedure licence (paragraph 5(3) of Schedule 3)
 - Mandate the form and content of the premises/vehicle approval certificate (section 71(4)).
- 4.12 This is so that the certificates are consistent in appearance and content throughout Wales, and easily recognised by practitioners and members of the public. We propose that these certificates should be A4 in size, portrait orientation, be bilingual, printed in colour, should include the logo of the issuing local authority and contain the information presented in the certificates set out in Annex C of this document.
- 4.13 **We are also proposing** to make regulations about:
- The way in which a licence application is made, the information to be provided in the licence application and the way in which an application is to be dealt with by the local authority (paragraph 4(4)(b)) of Schedule 3).
 - The way in which applications for an approval of a premises/vehicle are to be made and dealt with (section 70(7)(a))
 - The information to be provided in an application for a renewal and a variation of an approval certificate (section 70(7)(c) and (d))
 - The information that must be included in a notice of voluntary termination of approval (section 72(5)).

4.14 It is our intention to propose model example forms in the guidance that we produce, and we anticipate all 22 LAs will adopt these forms. With the exception of the proposed licence and approval certificates, we intend including any example forms in the next consultation which proposes the detail of the draft regulations.

Welsh language [More than just words \(gov.wales\)](#)

4.15 The people of Wales should be able to access services in Welsh if they choose to do so. An Active Offer simply means providing a service in Welsh without someone having to ask for it. It means creating a culture that places the responsibility on service providers to provide a proactive language offer so that people can access services, as equal partners, through the medium of Welsh.

4.16 Local authorities, in administering the mandatory licensing scheme outlined in this consultation document, are expected to make all application materials equally available in Welsh and English, and to provide all services in relation to the scheme in the individual's language of choice. This will be endorsed in the proposed guidance that will accompany the regulations.

4.17 The Welsh Government will provide all guidance documents it is responsible for in relation to the scheme in both Welsh and English.

Arrangements for practitioners not resident in Wales

4.18 The proposals set out in this consultation document will apply to premises and vehicles in Wales and practitioners who are working in Wales for any given time period. An individual who resides outside Wales but works in Wales will be required to comply with Welsh law. Therefore, practitioners who are not resident in Wales but who wish to work in Wales for longer than a temporary special procedure licence allows or more regularly will need to apply for a three-year special procedure licence, meeting the same criteria as practitioners who are resident and operate in Wales. In these circumstances, an application will be made to the local authority in which the non-resident practitioner intends to work, or where they will undertake most of their work if more than one local authority area.

4.19 Practitioners who are holders of special procedure licences issued in Wales who wish to work elsewhere in the UK or abroad must still comply with any local requirements that may be in place outside Wales.

Questions related to 4: General Principles

Question 1 – Do you agree with our proposals to mandate the form and content of a special procedure licence and the premises/vehicle approval certificate within regulations? Is there anything else that should be included in the format of these documents?

Question 2: Do you agree with our proposal to make regulations about further provision (as set out in paragraph 4.13)?

5. Transitional arrangements

- 5.1 Practitioners of the four special procedures who are currently registered under the existing requirements for acupuncture, electrolysis, piercing and tattooing under the 1982 Act will still need to apply for their own special procedure licence and, if necessary, a premises/vehicle approval certificate. There will be no carry forward of existing registrations or ‘grandfather rights’ for special procedures practitioners who have been practising for a number of years.
- 5.2 To enable existing practitioners to make applications and to allow processing of the applications and inspections to be made by local authorities, we propose that there be a transition period of nine months from the coming into force date of the new mandatory licensing scheme. During this time, the 1982 Act will remain in force to allow existing practitioners to continue to practise while they are making their applications. New entrants will not be permitted to register under the 1982 Act once Part 4 of the Act comes into force and therefore new practitioners will need to apply for a licence under the new scheme.
- 5.3 Anyone who has not obtained a licence and, where applicable, a premises/vehicle approval certificate by the end of the transition period will not be able to practise legally. There will be no exceptions to this requirement to obtain a licence/certificate and no extensions of time to this transitional period.

Question related to 5: Transitional arrangements

Question 3 – Do you agree that nine months is a sufficient transition period? If not, what should it be?

6. Applications – Special procedure licence

The need for a special procedure licence

- 6.1 A person will need a special procedure licence if they carry out acupuncture, body piercing, electrolysis or tattooing on another person in Wales (even if only occasionally) if they:
- are not exempt (see [section 7](#) on exemptions);
 - are performing the procedures in the course of a business
 - have been designated by the local authority under Section 61 as requiring a licence. This applies to persons who perform special procedures not in the course of a business
 - are apprentices or trainees receiving ‘on the job’ training, in which case they will need to apply for a trainee licence

Practitioners who are currently registered under the existing requirements for acupuncture, electrolysis, piercing and tattooing under the 1982 Act will still need to apply for their own special procedure licence. **There will be no carry forward of existing registrations or ‘grandfather rights’ for special procedures practitioners who have been practising for a number of years.**

- 6.2 A person will need to apply to the local authority within which they conduct their special procedures activities. If they practise in more than one local authority area, they should apply to the local authority in which they conduct the majority of their special procedures.
- 6.3 Practitioners who live outside Wales but who intend to work in Wales will need to apply to the Welsh local authority in which they will be conducting the majority of their work. Applicants will not be required to apply to more than one local authority in Wales.
- 6.4 The special procedure licence, when issued, will be valid for the whole of Wales and will remain current for three years, after which time the individual will have to apply for renewal. If a temporary seven-day special procedure licence is applied for, then it will be limited to a specific event and/or timeframe. In the case of time limited licences, a new application has to be made for each separate event.

Licensing criteria and pre-application requirements

- 6.5 The **licensing criteria** are the things a person will need to have in place before they can apply for a special procedure licence.
- 6.6 **We propose** that all applicants should meet the following licensing criteria before application can be made for a special procedure licence:
- **The applicant is 18 years of age or over**
 - **Has passed a regulated Level 2 Infection Prevention and Control qualification for special procedures**

- **Has completed an infection prevention and control questionnaire**
- **Has a satisfactory level of competence appropriate to perform the special procedure**
- **Has treatment/special procedure indemnity insurance**
- **Makes a declaration of relevant offences**
- **Application fee**

Minimum age

6.7 **We propose** that the minimum age for eligibility for a special procedure licence will be 18. Engagement across all four special procedures industries has suggested that this should be the minimum age that anyone should be able to obtain a licence. (Please see [section 9](#) where the minimum age is discussed further).

Regulated Level 2 Infection Prevention and Control Qualification

6.8 A regulated Level 2 qualification on infection prevention and control where special procedure practitioners must:

- Understand infectious and non-infectious hazards associated with special procedures and
- understand how the risks from infectious and non-infectious hazards can be controlled.

6.9 The content of this regulated qualification should therefore include:

- The role of microorganisms in infection.
- Common non-infectious hazards associated with special procedures.
- How the reaction of the skin to injury can be a risk to the individual.
- Sources of infectious and non-infectious hazards and the chain of infection in relation to special procedures.
- The legal requirements for special procedure practitioners and business owners.
- How the skin acts as a defence against infection.
- Safe special procedure practices and procedures, including client consultation and aftercare; hand hygiene; management of special procedure environment; management of special procedure equipment and products; cleaning; disinfection and sterilisation; personal protective equipment; management of body fluids; collection and disposal of waste; occupational exposure management.

6.10 To successfully achieve this qualification, special procedure practitioners must demonstrate their knowledge through passing an assessment which will confirm their knowledge and understanding of facts, procedures and ideas in infection prevention and control relevant to their job role to enable them to complete well-defined tasks and address straight-forward problems. Courses can be delivered i

in both Welsh and English across Wales. Local authorities can advise on availability of relevant courses in their area.

- 6.11 Appropriate Level 2 qualification regulated by Qualifications Wales currently available:

[RSPH | Level 2 Award in Infection Prevention and Control for Special Procedures Practitioners](#)

[View qualification \(qiw.wales\)](#)

Infection prevention and control questionnaire

- 6.12 **We propose** that applicants should be required to submit an infection prevention and control questionnaire with their application. This form will ask the applicant to outline the infection prevention and control and first aid procedures they have in place as part of their practise, or if they are not already in business, the procedures they intend to apply. The purpose of the form is to demonstrate that the applicant has applied the knowledge gained from the Level 2 qualification to their current practice.

Competence

- 6.13 **We propose** that applicants should provide evidence of their competence in the special procedure(s) for which they wish to be licensed to perform. Some of this evidence will differ according to the special procedure and whether formal regulated qualifications exist e.g., electrolysis or an informal pathway to competency is followed e.g., tattooing. However, some of the evidence is common to all procedures, for example keeping records of any courses or conventions attended and having appropriate operating procedures in place.

Treatment/special procedure indemnity insurance

- 6.14 **We propose** that applicants should provide evidence of current insurance that covers treatments such as treatment indemnity insurance or similar policy.

Declaration of relevant offences

- 6.15 **We propose** that applicants should provide a declaration of any relevant offences that may affect their application for a licence, and to have obtained a basic DBS check certificate. What constitutes a 'relevant offence' under the Act is discussed in paragraph 6.21.

Documentary evidence to be provided

- 6.16 All applicants for a special procedure licence must provide valid (i.e. of recent issue by the relevant provider or within its expiry date) documentary evidence of the following, or their application will not be processed:
- Verification of name and date of birth. Acceptable proof will be any one of the individual's following documents: passport, driving licence or other appropriate photo ID)
 - Verification of current residential address – this may be the same document as above but could also be a document such as a utilities bill or council tax statement
 - One full-face passport photograph
 - Scanned copy of a valid pass certificate of a regulated Level 2 infection prevention and control qualification for special procedure practitioners
 - A completed infection prevention and control (IPC) questionnaire. This form comprises of a small number of questions requesting information on the IPC and first aid practices used by the special procedure practitioner applying for the licence.
 - Evidence of competence to perform the special procedure(s) for which the application is being made
 - Proof of insurance that covers treatments such as treatment indemnity insurance or similar policy
 - A basic DBS certificate or (in the case of persons from outside the UK who are not eligible for a DBS check) a 'certificate of good character' issued by the country where they previously operated. These certificates should be of no older than 28 days before the date of the application for

Making the application

- 6.17 The applicant will obtain the application form for a special procedure licence from the local authority in Wales in which they conduct the majority of their special procedures activities. Applicants will **not** be required to apply to more than one local authority in Wales, as if granted, their special procedure licence will be valid in all Welsh local authority areas. Applicants may apply in either Welsh or English as all application materials will be available in both languages, and their application will be dealt with via their language of choice.
- 6.18 Our proposal regarding the content, format and provision of application forms and the way applications are to be made is outlined in paragraph 4.14. We intend to include example application forms in the next consultation which proposes the detail of the draft regulations.

6.19 Applicants must complete all sections of the application form as instructed, and provide all of the documentary evidence requested, or their application will not be processed, and any fees paid at the time of submitting the application form will only be refunded at the discretion of the local authority. Applicants should follow any additional instructions that the local authority gives them.

The application process

6.20 On receipt of each special procedure licence application form, the required documentation and appropriate fee, the local authority will look at the information provided by the applicant and determine whether the application can proceed to the next stage. If the application form has been completed in Welsh, it will be processed in Welsh. Local authorities may ask for further information, in addition to what has already been provided by the applicant, if they consider that the information is incomplete, or clarification is needed. Local authorities must firstly consider if there are any 'relevant offences' declared on the application form or within the DBS certificate.

Relevant Offences

6.21 'Relevant offences' are set out in the Act as any offence:

- under Parts 4 (special procedures) and 5 (intimate piercing) of the Public Health (Wales) Act 2017
- that involves violence
- that is of a sexual nature, or relates to sexual material or images
- that consists of tattooing a child under the age of 18
- that relates to health and safety at work
- that 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.

6.22 If an individual has been convicted of a relevant offence as listed above, then the local authority is **not** required to issue a special procedure licence automatically even if all the other application requirements are satisfactory. The LA 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 a licence.

6.23 In deciding whether the applicant's fitness has been called into question, the LA must have regard to the guidance that Welsh Ministers must produce for local authorities. The Welsh Minister must give guidance 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 (section 66(11)).

6.24 Under section 66(9) a relevant offence is to be disregarded by the LA for the purposes of determining whether a licence should be granted if it is spent for the purposes of the Rehabilitation of Offenders Act 1974.

- 6.25 Some convictions can become 'spent' meaning that they will not show up on certain criminal record checks undertaken by the Disclosure and Barring Service (i.e., a DBS check). Whether a relevant offence is 'spent' very much depends on the following matters such as:
- The nature of the offence
 - The age of the individual
 - The type of penalty received, when it was received and the duration of such a penalty.
- 6.26 The following link helps provide further information to individuals around this matter – [Rehabilitation of Offenders Act 1974 – Unlock](#). An applicant is responsible for seeking independent advice on whether their conviction has been 'spent' or not for the purposes of Part 4.
- 6.27 If a conviction for a relevant offence is not classed as spent then the LA must consider the applicant's fitness to perform the procedure having regard to the guidance issued by the Welsh Ministers. If an individual has been convicted of a relevant offence, and it is considered to be 'spent' then the guidance is not to be consulted.
- 6.28 If there are relevant offences identified, the local authority may ask the applicant for more information if they need this to decide. If the local authority intends to refuse an application for a licence, it is required to send a warning notice and notify the applicant. This allows the applicant to make representations to the local authority's licensing committee. The licensing committee will then consider the application and any representations from the applicant and make a decision. If the licensing committee determines the licence can be granted, the applicant will be notified, and the application will be processed in the same way as any other application.
- 6.29 If the licensing committee decides the applicant's fitness has been called into question, then the licence must not be issued, and the applicant will be informed and be provided details on what an applicant can do next. This is discussed in the next section about refusals.
- 6.30 Welsh Ministers have a power to add, vary or remove the descriptions of the offences given above. This means that further offences can be added that will be 'relevant' when local authorities are determining applications or vary or remove the ones that are listed.
- 6.31 The purpose of listing the relevant offences is to protect clients when they are receiving special procedures, not to assist enforcement officers as such. Therefore, if any offences should be added to the list, they should be of such a serious nature that the client is likely to be at risk of significant harm if that practitioner were to obtain a licence and do not fall within the categories of relevant offences already provided under the Act.

- 6.32 **We propose** to commence the power to make regulations to add, vary or remove the description of a relevant offence, but we do not propose to make any amendments at this point. We consider, as the relevant offences already on the face of the Act were fully considered during the Bill process, these are sufficient to safeguard the public at this time.
- 6.33 As referred to above, section 66(11) of the Act requires Welsh Ministers to provide 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. We do not propose in this consultation to include any discussion about the contents of this statutory guidance or ask any questions about it. We would prefer to have the benefit of the responses to question 7 about relevant offences above to inform what matters need to be included. This statutory guidance will be the subject of a separate public consultation in due course.

Licensing committees

- 6.34 Under the Act, specific functions of the local authority have been delegated to its licensing committee. This allows the licensing committee to hear representations and make decisions in relation to the following:
- The intention to refuse an application for a licence, i.e., if the local authority is not satisfied that all licensing criteria have been met
 - The intention to refuse an application for a licence, i.e., where relevant offences have been considered and the local authority is not satisfied that it would be appropriate to issue that licence
 - The intention to refuse a renewal of a licence
 - The intention to refuse variation of a licence
 - The intention to revoke a licence
 - The intention to designate an individual requiring them to have a licence.
- 6.35 While the functions remain functions of the local authority, the licensing committee (or one of its sub-committees) will provide a level of oversight in these decisions. Committee members have experience in taking licensing decisions which may affect people's livelihood, and there is an established process in place to hear cases and process decisions. In addition, to enable the licensing committee to take decisions in relation to specific areas, these functions also enable the licensing committee to refer specified decisions back to the local authority and to sub-delegate decision making.
- 6.36 Under paragraph 21 of Schedule 3 of the Act the Welsh Ministers may make regulations about the procedures applicable to licensing committees and their sub-committees in order that they can exercise their delegated functions, including public access and the availability of records. **We propose** to consult on the detail of this in the next consultation that will be specific to the detail of the regulations.

Processing the application

- 6.37 In all cases, the local authority may ask for additional documentation or to have a conversation with the applicant to discuss the details of their application. This may include a discussion on the practices and procedures they have outlined on the infection prevention and control questionnaire and first aid knowledge in relation to special procedures or their responsibilities under the Act.
- 6.38 Once the local authority has reviewed the application documents and made any additional enquiries that may be appropriate, the applicant will be notified that either their licence application has been approved or that the local authority intends to refuse the application. If this happens, the following process will apply.

Refusing an application and appeals against refusal of application

- 6.39 The local authority may refuse any application if it considers that the application requirements are not met. If the licensing criteria are not met (such as the documentary evidence requested is incomplete or missing), the application will not be processed. If, having considered the application and the documentary evidence, the local authority intends not to approve the application, a warning notice will be sent to the applicant. This will set out the reasons of its intention to refuse the application and advise the applicant they can make representations to the licensing committee. This means that the applicant will be able to go before the licensing committee and make their case as to why their application should be approved.
- 6.40 In the case of an application referred to the licensing committee for a decision, if the licensing committee determines that the application should not proceed further and be refused, the applicant will have the right of appeal to a magistrates' court and the Crown Court (if necessary). In all cases, if the appeal is granted, then the application will be assessed for approval, subject to all other parts of the application being in order. If the licensing committee's decision is upheld by the courts, then the application will be rejected.

Approval and granting of a special procedure licence

- 6.41 When the applicant has successfully completed all stages of the application process, the local authority will notify them that their application has been approved and their licence is granted. This will include provision of mandatory licensing conditions specific to the special procedure practitioner and the special procedures they are licensed for, as well as general licensing conditions that will apply to all types of special procedure licences. Mandatory licensing conditions are discussed in the appropriate sections of this document in [Section 8](#) and [Annex D](#).
- 6.42 The special procedure licence will be valid for three years (unless a temporary seven-days special procedure licence has been applied for). The dates of issue and expiry, its unique identification (ID) number, name of licensee (the special

procedures practitioner), details of the approved premises or vehicle, and details of the special procedures the practitioner is licensed to undertake, will be published in a central public register for Wales of special procedures practitioners and approved premises/vehicles. We propose that this register will cover the whole of Wales and will be available for members of the public to consult. Further details of the proposed register are given at [section 14](#).

- 6.43 It is part of the Act that a practitioner will only operate from a premises/vehicle that has a premises/vehicle approval certificate and as part of the mandatory licensing conditions that the special procedure licence is displayed in a prominent place. We will be giving further consideration to the practicalities of the display of licences where the practitioner works in more than one premises, is not fixed to one particular premises or attends events and anticipate issuing guidance for practitioners and enforcement officers.

Variations and changes to special procedure licences

- 6.44 It is recognised that special procedure practitioners may wish to vary or change the details of their special procedure licence while it is still current. This may be to add, amend or remove a special procedure or an approved premise from which they intend to perform special procedures. It is envisaged that these changes will be made through the completion of a variations form, to be submitted to the local authority who originally approved their licence. The Act allows the local authority to charge a fee for this application.
- 6.45 These variations are required because the purpose of the Act is to provide a licensing scheme that is transparent, supports the mobile nature of this industry and enables efficient investigation of incidents capable of causing harm to human health
- 6.46 Should a special procedure practitioner wish to terminate their licence for whatever reason while their licence is still current, they may notify the issuing local authority of their intention. They must also follow any other instructions they are given by the local authority to cease practise and surrender their licence.
- 6.47 If a special procedure practitioner who has had their licence terminated wishes to resume practise in the future, they must make a new application at that time.

Renewals of existing special procedure licences

- 6.48 Licensed practitioners will need to apply every three years to renew their special procedure licences. The application form should be submitted no later than 28 calendar days before the expiry date shown on their licence.
- 6.49 If there have been no changes to the details they submitted when they last applied for a licence, the applicant need only complete the renewal application form which includes a declaration that there have been no changes.

- 6.50 If there have been changes since the licence was last granted or renewed, then the applicant must complete both a renewal of licence form, making the appropriate declaration on that form, and also a variations form, outlining what has changed.
- 6.51 All applications for renewal of licence will attract an application fee. Where there are changes of special procedures to be added to the special procedure licence, or variations of work (such as working out of a number of different premises/vehicles rather than one fixed approved premises/vehicle), these will be subject to the same process of consideration by the local authority as a first application for a special procedure licence. This is to ensure that the practitioner has remained up to date with their infection control procedures and knowledge.

Refusal of applications for variations or renewals of existing special procedure licences

- 6.52 The same process will apply as for new applications. If a local authority considers an application to vary or renew an existing special procedure licence should be refused, a warning notice will be sent to the applicant explaining the reasons why. The applicant will have the right to make representations to the licensing committee as in paragraph 6.41, as well as the option to appeal to the magistrates' court and the Crown Court (if necessary).

Questions related to 6: applications – special procedure licence

Question 4 – Do you agree that the proposed minimum age for applicants for special procedure licences is appropriate?

Question 5 – Do you agree with the proposed licensing criteria for special procedure licences and the supporting documents listed? Are there other documents applicants should supply?

Question 6 – Do you agree with the proposal that applicants should evidence their competence in the special procedure(s) they wish to perform? If you agree, how should that be demonstrated, and what documentary evidence should be produced?

Question 7 – Do you agree that the current descriptions of relevant offences are sufficient? If not, why?

Summary – Special Procedure Licence

You will apply to the local authority area in Wales where you do most of your work in, including if you live outside Wales. You can apply in Welsh or English.

- Applies to acupuncture (including dry needling), body piercing, electrolysis and tattooing (including semi-permanent makeup).
- All practitioners who want to work or operate in Wales for any period of time have to have a special procedure licence to operate legally.
- You will need a licence to perform any of the special procedures in the course of a business. If you perform any of the special procedures in any other capacity, you may be required to get a licence by your local authority.
- This applies to everyone – even if you are currently registered with your local authority under the 1982 Act.
- You can only perform a special procedure legally from an approved premises or vehicle. If you are responsible for a premises or vehicle, you can apply for this approval at the same time as the special procedure licence.
- There are some things you need to do before you can apply for a licence – these include passing a regulated level 2 infection control qualification, getting a basic DBS check, making sure your treatment indemnity insurance is up to date and proving your identity.
- The local authority you apply to will process your application and may want to speak with you as part of the application process.
- The application process and the fees will be the same wherever you apply in Wales and, if granted, your licence will be valid anywhere in Wales, as long as it is in an approved premises or vehicle.
- Your licence will have general conditions that you have to follow – these will be the same for all practitioners in Wales. Your licence may have conditions which are specific to the special procedure/s you are licensed to perform.
- Your licence will set out what special procedures you are licensed for. It will be valid for three years, or no more than seven days (for example for visiting practitioners looking for a temporary licence).
- You can change the procedures you are licensed to perform at any time by applying to the local authority who issued your licence.

7. Exemptions – Individuals/professions that do not need a special procedure licence and premises/vehicles that do not need an approval certificate

Exempt individuals

7.1 Section 60 of the Act provides detail about the circumstances in which an individual is exempt from the requirement to obtain a special procedure licence to perform the four named special procedures (acupuncture, body piercing, electrolysis and tattooing). Section 60(2) of the Act provides that an individual who is a member of a profession mentioned in paragraphs (a) to (ga) of Section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 is exempt unless regulations specify that a licence is required in relation to a specific special procedure. These professions are listed below:

- (a) the General Medical Council
- (b) the General Dental Council
- (c) the General Optical Council
- (d) the General Osteopathic Council
- (e) the General Chiropractic Council
- (f) the General Pharmaceutical Council
- (g) subject to Section 26(6), the Pharmaceutical Society of Northern Ireland
- (ga) the Nursing and Midwifery Council.

7.2 Welsh Ministers may make regulations if they consider that these members should not be exempt from being licensed to perform all special procedures or should be required to be licensed in order to practise perhaps one, or more, of those special procedures. Members of these bodies are only exempt from performing the four special procedures because of their professional membership, prior training and that they are regulated and accountable for their professional actions to those bodies. It does not mean that they are not regulated, they are regulated by those regulatory bodies. In addition, local authorities have powers under existing health protection legislation to take action should there be any serious breaches of infection prevention or control by registered medical practitioners.

7.3 **We propose** that members of a profession regulated by these named bodies under s60(2) should **not** hold blanket exemptions for **all** four special procedures, but regulations should be made to limit their exemption(s) as follows:

- The individual must be registered with a qualifying regulated mandatory professional body
- The special procedure is within their area of expertise and is considered 'in scope' and is therefore the subject of indemnification by the organisation they work for, or through self-indemnity if self-employed
- The special procedure is performed within the National Health Service or privately regulated healthcare service regulated by Healthcare Inspectorate Wales (HIW)

- If the individual ceases to be registered for any reason, their exemption would cease, and they would have to obtain a special procedure licence if they still wished to perform that special procedure.
- 7.4 Registrations with these regulatory bodies are subject to regular review cycles and expire if they are not renewed because the individual is no longer a member of the relevant profession.
- 7.5 As an example, a registered nurse who performs medical tattooing on cancer patients as part of their role as a registered nurse will be exempt from separate special procedure licensing while performing that role but if that registered nurse then decides to perform tattooing on clients in a commercial setting that is not regulated by HIW (such as a tattoo parlour or a beauty salon), then they will be required to have a special procedure licence to practice as a tattooist in that context.
- 7.6 'Registered nurse' is a protected title, so a nurse who is not registered will not be exempt and will therefore require a special procedure licence if they wish to perform any of the four named special procedures.

Exempt premises

- 7.7 Section 69(8) allows Welsh Ministers to make regulations which exempt descriptions of premises and/or a vehicle from the requirements to be approved and/or comply with mandatory conditions of approval. In the course of normal business, any premises at which any of the four special procedures are performed would require a premises approval certificate. As the operation of exempt individuals in the terms we propose is very specialised, **we propose** that any National Health Service setting or a privately regulated healthcare service regulated by HIW should be exempt from the requirement to obtain a premises approval certificate where exempt practitioners operate. This exemption would apply only if the setting met these criteria. Any other setting would require a premises approval certificate even if the individuals performing special procedures at that premises hold personal exemptions.

Other exempted individuals

- 7.8 Section 60(3) of the Act enables Welsh Ministers to consider and set out in regulations members of other professions/bodies that are not captured in the exempted list above but who, by the nature of their work and registered membership, should be exempt from requiring a special procedure licence to practise one or more of the four specified special procedures.
- 7.9 The Welsh Ministers have a regulation making power which can enable individuals who are members of a profession (not those listed in paragraph 7.1), or are workers of a description specified in regulations, to be exempt if they are registered with a qualifying register.

- 7.10 A **qualifying register** is defined in section 61(4) as one maintained by the Health and Care Professions Council (HCPC), or a voluntary register that is both accredited by the Professional Standards Authority (PSA) for Health and Social Care and specified in or under regulations. These registers are comparable in terms of regulation with those registers maintained by the bodies outlined above (section 60(1)) and may also carry a similar exemption.
- 7.11 We anticipate that the professions on the HCPC list that are relevant will be:
- chiropodists/podiatrists
 - physiotherapists
 - prosthetists/orthotists.
- 7.12 **We therefore propose** that these specific professions listed on the HCPC statutory register relevant to the special procedures are exempt from the requirement to obtain a special procedure licence.
- 7.13 The exemption would be limited as given in 7.3 above:
- The individual must be registered with a qualifying mandatory professional body
 - The special procedure is within their area of expertise and is considered 'in scope', and is therefore the subject of indemnification by the organisation they work for, or through self-indemnity if self-employed
 - The special procedure is performed within a National Health Service setting, or a privately regulated healthcare service regulated by HIW
 - If the individual ceases to be registered for any reason, their exemption would cease, and they would have to obtain a special procedure licence if they still wished to perform that special procedure.
- 7.14 We are aware that some professions are members of voluntary accredited registers maintained and regulated by the PSA. As membership of these registers is voluntary, we propose that organisations listed within the voluntary accredited register of the PSA are **not** exempt and members will therefore require a special procedure licence to operate in Wales.
- 7.15 Therefore exemption would apply only to the proposed list of specific professions within the HCPC statutory register relevant to special procedures. Organisations listed within the voluntary accredited register of the PSA are not exempt. Any healthcare professionals who do not meet all the criteria set out for exemption will have to obtain a special procedure licence and a special procedures premises/vehicle approval certificate (if appropriate).
- 7.16 **We therefore propose** that no other bodies maintaining a professional register be granted exemptions of any of the named special procedures.

Questions related to 7: exemptions

Question 8 – Do you agree with the principle of this proposal that regulations should be made to limit the exemptions on members of the listed professional bodies in section 60?

Question 9 – Do you agree with the principle of this proposal that regulations should be made under section 69 to apply exemptions to premises at which exempt members of these professional bodies will practise?

Question 10 – Do these exemption principles for individuals and premises adequately protect the safety and health of the client?

Question 11 – Do you agree with the principle of this proposal that the statutory registered HCPC named professions of chiropodists/podiatrists; physiotherapists; prosthetists/orthotists should be exempt? Are there other professions on this register that should have an exemption?

Question 12 – Do you agree with the principle of the proposal that members of voluntary registers accredited by the PSA should not be exempt?

8. Mandatory licensing conditions for special procedure licences

8.1 Special procedure licences will be issued with licensing conditions attached. These conditions will set out the terms and requirements that the licence holder must adhere to in order to retain their licence. There are mandatory conditions that will apply to all practitioners, and specific conditions related to individual special procedures for which the licence is issued. Ultimately the local authority may give notice to a licence holder of their intention to revoke a licence. It could do this if it satisfied that:

- the licence holder has failed to comply with an applicable mandatory licensing condition **and**
- that the non-compliance presents, or could present, significant risk of harm to human health.

8.2 **We have developed example mandatory licensing conditions for special procedure licences. These capture the requirements of the Act in terms of what ‘must’ and what ‘may’ be included in the regulations. The regulations must include conditions relating to verification of the client’s age, infection control, standards of hygiene and first aid, client consultation before and after the special procedure has been performed, record keeping and prohibition of a special procedure where the client is intoxicated. The example mandatory conditions can be seen at Annex D of this document. Please refer to this annex carefully, as the wording and subject matter presented may be included in the regulations following this consultation.**

The contents of the annex therefore form part of this consultation and are presented by way of example.

Questions related to 8: mandatory licensing conditions for special procedures practitioner licences

Question 13 – Do you have any comments on the example mandatory licensing conditions for all special procedures as set out in Annex D1?

Question 14 – Do you agree the specific mandatory licensing conditions at Annex D1 are proportionate to the risks presented by each type of special procedure?

9. Special considerations in licensing conditions

9.1 There are a number of special considerations that we have taken account of in the mandatory licensing conditions for particular special procedures, and these are set out below.

Trainees and Apprentices

9.2 We are aware that there are further education establishments and private schools who train students in special procedures, and a number of experienced special procedure practitioners who train their own apprentices, particularly in the body piercing and tattooing industries. We are also aware that some individuals take up regulated apprenticeships to pursue a career in a special procedure. Not all of those who are trained in these ways go on to practise – some do not complete their training; others qualify but take up other work. We consider that the licensing of trainees and apprentices of all kinds should be proportionate to the risk they present to the public, how regulated their training is and whether there is a risk of misleading the public as to their qualification status by including them on the central register of licensed practitioners.

9.3 All apprenticeships (regulated and unregulated) and trainees receiving on the job training including those who as part of their job attend unregulated and regulated courses receive a high level of supervision and their activities in the workplace are closely controlled. They have the potential to present a risk to the public when they are deemed sufficiently competent by their supervisor/mentor to perform the special procedure on a client. We therefore consider that it is proportionate to require them to obtain a three-year licence at this point. However, as they are still training and under supervision, a full special procedure licence would be inappropriate until such time as they qualify or can work unsupervised.

9.4 **We therefore propose** that a trainee licence should be available for all trainees and apprentices. The trainee/apprentice will not need to apply for a trainee licence until the tutor/mentor considers that the trainee/apprentice has attained a level of competence that allows them to perform a special procedure on another person under supervision.

- 9.5 The trainee licence will be valid for three years and come with additional restricted licensing conditions specific to the trainee status. This category of licence will be shown on the central public register, to make the distinction for the public between fully licensed practitioners and trainees. Trainee special procedure licences will be subject to the same licensing criteria as a full special procedure licence with the exception of the 'evidence of competence' criteria and with the additional requirement that the tutor/mentor countersigns the application form to indicate that they have reached an appropriate level of competence to allow them to perform a named special procedure under supervision and at one specified approved premises.
- 9.6 The following licensing criteria will apply for trainee licences:
- The trainee/apprentice meets all applicable application criteria for a three-year special procedure licence, excepting evidence of competence.
 - The course is a regulated qualification or regulated apprenticeship scheme in a relevant special procedure, delivered in a college of further education or other educational establishment or is an unregulated apprenticeship carried out at an approved premises under the supervision of a licensed practitioner.
 - The application form completed by the trainee will require a signed declaration by their mentor.
- 9.7 Practitioners who act in this capacity as a tutor, mentor or supervisor will need to hold their own three-year special procedure licence and clearly state on their own application form in what capacity they train, supervise or assess trainees/apprentices; the tutor's licence conditions will have additional conditions in their licence to reflect their supervision responsibilities and restrict the special procedure activity of trainees/apprentices to that setting and under their supervision of a tutor.
- 9.8 The restricted status of the trainee licence will indicate that the trainee/apprentice can only perform the designated special procedure while being supervised by a named licensed practitioner in one named approved premises in any other circumstances or settings. The trainee/apprentice will be subject to the same enforcement actions as those professional licensed practitioners, including revocation of their licence, the service of enforcement notices and prosecution should they breach their licence conditions, in particular performing the special procedure outside the designated approved premises and supervision of the mentor/tutor.
- 9.9 The trainee licence will be accompanied by additional licence conditions to reflect their trainee status. The licence will be valid for three years or until such time as the holder qualifies or is deemed competent to perform the special procedures specified without supervision, whichever is the soonest. When the trainee/apprentice is deemed competent to perform special procedures on another person without supervision by their trainer or they qualify from a regulated course, it will be a licensing condition that the holder makes an application to the issuing local authority to change the licence to a full special procedure licence, subject to provision of appropriate documentary evidence.

- 9.10 Should the licence holder not qualify or leave their course/apprenticeship before the expiry of the trainee licence, or if they qualify but decide not to take up employment in special procedures, they are required under the Act to notify the local authority that issued the licence of their intentions, and the local authority will terminate the licence. If they qualify and go on to perform the special procedure, they are now competent in unsupervised, but do not have their trainee licence changed to a full special procedure licence, they will be in breach of their trainee licence and the local authority can revoke their licence.
- 9.11 If a trainee licence holder takes up employment at a different premises or changes to a different trainer/mentor to those named on their trainee licence, we anticipate that they will apply to the issuing local authority to vary their licence and have these details changed even if they are still being supervised as they will be in breach of their licensing conditions to only perform special procedures at a named location and under the supervision of the named tutor/mentor and run the risk of their licence being revoked.
- 9.12 The apprentice who has completed their apprenticeship and has qualified should apply for the trainee licence to be varied to a full special procedure licence.

Trainees on regulated courses provided by colleges of further education

- 9.13 Requiring trainees or apprentices enrolled on regulated courses delivered by further education colleges to be licensed would mean that there would be a high volume of licensing applications with every intake of trainees in further education colleges and other establishments. Further, these trainees present minimal risk to the public as their training is closely supervised and controlled and they do not perform the special procedure on someone else and they are usually under the age of 18. **We propose** that these trainees will not need to obtain a trainee licence until such time as they qualify, in which case they should apply for a full special procedure licence.

Unregulated courses

- 9.14 We are aware that there are a number of individuals and training schools who offer special procedure courses to individuals wishing to take up these professions. We would like to highlight that these individuals and schools will be required to comply with all the requirements of this scheme, including the necessity of having a special procedure licence and a premises/vehicle approval certificate and trainee licences if appropriate.

Minimum age for a practitioner

- 9.15 We are concerned that there is a potential that young people of the age of 16-18 working in the special procedures industry may be at risk of exploitation (for example sexual exploitation) if they are asked to perform any of the special procedures on clients on those parts of the body defined as 'intimate' in the

Intimate Piercing Regulations, even if supervised. We consider that there is a disjoint between the minimum age of 18 set in regulations for the client for tattooing and intimate piercing and the minimum age of the practitioner who is to perform those procedures. If the purpose of the age limit for the client is to safeguard those young people from harm, we consider that the same safeguarding should extend to the practitioner. There is no comparable legislation prohibiting electrolysis or acupuncture for anyone under the age of 18, it is logical to consider that these should not be performed on 'intimate' areas of the body on someone under the age of 18 or by someone under the age of 18.

9.16 **We therefore propose** that there should be a minimum age of 18 at which practitioners, trainees and apprentices can perform:

- tattooing any part of the body – by definition this also includes semi-permanent makeup
- intimate piercing
- body piercing on any other part of the body
- electrolysis and acupuncture on any part of the body.

9.17 **We have set the minimum age for applying for a special procedure licence at 18. We propose** that these age restrictions should also be set in the licensing conditions of those licensed practitioners who identify that they have responsibility for training, supervising or assessing trainees and apprentices under the age of 18.

Age of client

9.18 Minors under the age of 18 are prohibited under existing legislation from obtaining a tattoo or intimate piercing. There are no comparable restrictions on non-intimate piercings, acupuncture or electrolysis. **We propose** that the mandatory licensing conditions for these special procedures should restrict any of those procedures being performed on a person under the age of 18 unless they have the written consent of their parent/legal guardian and that person is present at the pre-treatment consultation and the procedure itself, and the minor also gives their consent (except in the case of earlobe, eyebrow, lip, nose and ear cartilage piercing– see below).

9.19 **We further propose** that there be the following exceptions to the age limit and requirement for parental/guardian consent:

For piercing of earlobes only:

- a person of 16 can obtain an earlobe piercing **without** parental/legal guardian consent in writing and that person being present at the consultation
- a person under 16 can obtain earlobe piercing **with** written parental/legal guardian consent and that person being present at the consultation.

- 9.20 Based on information that we have received from the special procedures industry, it appears that the standard for piercing earlobes, nose, navel, lip, tongue or the top of the cartilaginous portion of the ear is 16 years. Ear lobe piercing is permitted under 16 years with written parental/guardian consent and with that person present during the piercing. Under 18s are prohibited from obtaining tongue piercings under the Intimate Piercing Regulations and we do not intend to change this prohibition.
- 9.21 We have considered whether piercings of the eyebrow, lip, nose and ear cartilage should be obtainable from the age of 16 without parental/legal guardian consent. We consider that this is reasonable, as we would not wish to unduly limit young people from obtaining piercings of these types when they are often capable of giving informed consent. We also are aware that we should not create an unintended consequence of young people resorting to self-piercing if they cannot otherwise legally obtain these piercings.
- 9.22 However, we do recognise that these are facial piercings, and the ear cartilage has potential for complications. We would not wish to permit young people to obtain any other facial piercings such as to the cheek without parental/legal guardian consent because of the recognised complexity of aftercare and potential for permanent scarring. We also recognise that there should be a consistency with our rationale regarding tattooing on the face and neck being subject to additional pre-treatment consultation, although tattooing is of itself prohibited for anyone under the age of 18.
- 9.23 For acupuncture or electrolysis on non-intimate areas of the body only:
- anyone under 18 wanting these treatments must have written parental/legal guardian consent and that person is to be present at a pre-treatment consultation and as chaperone at treatment. The person being treated must also give their consent separately (this is in line with industry guidance for acupuncture).
- 9.24 For acupuncture or electrolysis on intimate body parts (as defined in the Intimate Piercing Regulations):
- People under the age of 18 will not be able to obtain treatments of this kind even with parental/guardian consent in the types of premises licensed under this scheme. The only exception will be for legitimate medical treatment under the direction of a medical practitioner.

Eyeball tattooing

- 9.25 During the passage of the Act, Welsh Ministers made assurances to the Senedd that considerations would be given in the mandatory licensing conditions to prevent eyeball tattooing for non-medical cosmetic purposes. Medical eyeball tattooing (corneal) can be used to alter the cosmetic appearance of an individual's eyes following disease or accident. Others receive treatment for optical purposes,

including decreasing circumstantial glare within the iris. Corneal opacities are the leading reason for undergoing medical cosmetic tattooing.

- 9.26 Non-medical cosmetic eyeball tattooing is a term describing the permanent colouring of the white of the eye (called the sclera). Eyeball tattooing appears to be a rare, although potentially emerging practice. It is performed by injecting a very small amount of coloured pigment solution into the area between the conjunctiva (mucous membrane) and the sclera in the eye, in several locations, from where the ink then slowly spreads to cover all of the sclera. It is permanent and likely to be non-reversible. The known risks include permanent damage to the eye that can lead to blindness, the risk of infection and the masking of changes to the eye that indicate other medical conditions. The long-term risks are not yet fully known. It is unlikely that the techniques that can be used to remove skin tattoos could be used on the eyeball. Removal of the tattoo is therefore likely to be impossible.
- 9.27 Tattooing of the eyeball for non-medical cosmetic purposes is not treated in the same way as tattooing in the traditional sense and specific licensing criteria and conditions are needed to limit performance to competent individuals for medical purposes in appropriate settings. For this reason, we have added a mandatory licensing condition specific for tattooing that no licensed special procedure practitioner may tattoo an eyeball under any circumstances.
- 9.28 This does not affect medical applications by suitably qualified specialist practitioners as set out in the section about exempted individuals, as medical procedures are outside this licensing scheme.

Facial, neck and visible tattoos and piercings

- 9.29 In addition, Welsh Ministers were concerned during the passage of the Act that anyone who desired a visible tattoo or piercing, especially to the face, neck or hands, should be warned about the possibility of job-related discrimination from employers. A ministerial commitment was made to incorporating the potential implications of visible tattooing and piercing into the mandatory licensing conditions relating to pre-treatment client consultation. It is part of the licensing conditions that the practitioner advises the client on the implications of these issues at the pre-treatment consultation and makes a record of the discussion.
- 9.30 Semi-permanent makeup comes under the definition of tattooing, and we would like to point out that, as this is done in relation to the face, it will be a requirement for beauty therapists to undertake and record the pre-consultation advice given to the client. As semi-permanent makeup including microblading also falls under the definition of tattooing set out in the Tattooing of Minors Act 1969, which prohibits the tattooing of anyone under 18 except under defined circumstances, it will be a licensing condition that no person under the age of 18 will be permitted to obtain these treatments or to perform them.

Questions related to 9: special considerations

Question 15 – Do you agree that the creation of a trainee licence is a proportionate way of dealing with trainees on regulated courses and apprentices following regulated and unregulated apprenticeships?

If you don't agree, how should they be dealt with?

Question 16 – Do you agree that the minimum age for a practitioner to perform any of the special procedures should be 18?

Question 17 – Do you agree that the minimum age for a client to obtain any of the special procedures (notwithstanding the proposed exceptions listed) should be 18?

Question 18 – Do you agree that the outlined obtaining of consent and accompaniment by a parent/guardian for procedures for people under 18 where not otherwise prohibited provides sufficient safeguards?

Question 19 – Do you agree that 16 is an appropriate age for a person to obtain a piercing of the eyebrow, lip, nose or ear cartilage without parental/guardian consent?

Question 20 – Should piercings to any other part of the face be permitted from the age of 16? If so, why?

Question 21 – Do you agree that prohibiting the tattooing of eyeballs in the tattooing licensing conditions is sufficient to prevent this from being performed by licensed practitioners?

Question 22 – Is the proposal to require in licensing conditions that practitioners discuss the impact of facial and other visible procedures with clients and record the discussion sufficient to address the concerns?

10. Definition of 'object' for body piercing

10.1 Section 94(1) of the Act currently defines 'body piercing' as meaning:

“the perforation of an individual's skin or mucous membrane, with a view to enabling jewellery, or an object of a description defined in or under regulations, to be attached to, implanted in, or removed from an individual's body”.

10.2 Section 94 includes a regulation making power that allows the Welsh Ministers to define or describe objects that may be used for body piercing other than jewellery. A definition of an object has previously been provided to prohibit intimate body

piercing in the context of Part 5 of the Act (Intimate Piercing). The Intimate Piercing Regulations provide the following definition:

“Any object that is not jewellery is prescribed for the purposes of paragraph (b) in the definition of “body piercing” in section 94(1) of the Public Health (Wales) Act 2017, but only insofar as that definition applies for the purposes of the offence in section 95 of that Act (offence of performing or making arrangements to perform an intimate piercing on a child)”.

- 10.3 Therefore, under that definition, anything that is not jewellery is prohibited to be used for an intimate piercing on a child under 18. The Intimate Piercing Regulations were the subject of public consultation in 2018 and at that time, an attempt was made to define ‘objects’ in terms of type (for example plugs, tunnels, dermal and micro-dermal anchors, skin divers etc). A number of those who responded to that consultation considered that as body piercing practise encompasses fast-moving, experimental procedures, a prescriptive list of ‘objects’ would require regular review and revision. There was a concern that as the names of ‘objects’ are not standardised and can change, there was scope for legal circumvention of the Intimate Piercing Regulations.
- 10.4 We refer to this previous attempt to define an ‘object’ within regulations and we consider that the arguments put forward at that time, for example against defining an ‘object’ by type or by other reference to shape, size, material etc are still valid. The difference with defining an ‘object’ for the purposes of section 94(1) of the Act on this occasion is that the definition will identify what objects will be **permitted** to be used for any body piercing (intimate or non-intimate) of people over the age of 18, and non-intimate piercings for people under the age of 18.
- 10.5 **We propose** for consistency that the same definition of ‘object’ is used in these regulations as has been used in the Intimate Piercing Regulations:

Jewellery and **‘any object that is not jewellery’**.

- 10.6 This would have the effect of permitting body piercing with any object that is jewellery and is not jewellery, other than when it is specifically prohibited by other regulations (e.g., the Intimate Piercing Regulations). This may on face value appear to be allowing the more extreme and potentially harmful piercing and body modification practices. However, this is not the case and attempting to define an object with reference to shape, size, method of introduction to the body etc is to set a boundary that some will wish to cross, and any list that we might prescribe in regulations will require continual updating to take account of innovations in the industry.
- 10.7 We consider that the proposed definition would provide practitioners and their clients sufficient scope for body piercing as it is currently practised and allows for any innovations that may be made in the future without the need for the regulations to be continually updated. **We therefore propose** that the more extreme practices should be limited using the mandatory licensing conditions specific for body piercing, so those who are licensed to practice body piercing will

be prohibited from undertaking any body piercing procedure which involves the use of a scalpel or similar bladed instrument to perforate the skin or mucous membrane.

Questions related to 10: definition of 'object' for body piercing

Question 23 – Do you agree with the proposed definition for 'object' as it applies to body piercing?

Question 24 – Do you agree that prohibiting the use of a scalpel or similar bladed instrument in the body piercing licensing conditions is sufficient to prevent body modifications that extend beyond a body piercing procedure?

11. Premises/vehicle approval certificates approval criteria and application process

- 11.1 **A premises/vehicle approval certificate** enables a specific premises or vehicle to be approved to have named special procedures to be undertaken at that premises or vehicle. The person applying for the approval certificate will be subject to approval criteria which must be met for the application to be approved and the premises/vehicle will be subject to mandatory approval conditions once the approval certificate has been granted. These certificates will also be required for vehicles if they are used for carrying out special procedures, and for venues where an organiser may wish to have practitioners carrying out special procedures during the course of the event. Certificates can therefore be issued for three years or for no more than seven days duration.
- 11.2 A premises/vehicle approval certificate will need to be obtained for existing premises even if they are currently registered under the existing requirements. There will be no carry forward of existing registrations or 'grandfather rights' for practitioners or businesses who have been practising for a number of years.

Requirement for a Special Procedures Premises/Vehicle Approval Certificate

- 11.3 An individual will require a special procedures premises/vehicle approval certificate if special procedures are carried out on someone else in the course of a business in Wales at the premises or vehicle in the following circumstances:
- If they own, part own or have a business interest in an activity or business that carries out acupuncture, body piercing, electrolysis or tattooing from a premises or vehicle
 - If they own, part own or have a business interest in a building, structure, vehicle, premises or tent which is used for acupuncture, body piercing, electrolysis or tattooing

- If they manage a premises, building, vehicle, tent or structure that is used either occasionally or routinely for acupuncture, body piercing, electrolysis or tattooing
 - This applies even if someone operates from self-contained, purpose-built accommodation within domestic premises as an owner/occupier or tenant.
- 11.4 If a premises or vehicle is owned by more than one person or is owned by one person but managed by someone else as an employee, then it is the principal owner/operator who will make the application on behalf of all business partners. Holders of trainee special procedure licences may not apply for a premises approval certificate in their own right or as a person in charge of a premises until such time as they hold a full special procedure licence.
- 11.5 The individual will apply to the local authority where the premises is situated. If there is more than one premises in the same local authority area, a separate application has to be made for each premises. If they have premises in more than one local authority area, a separate application will need to be made for each premises to the local authority in which each premises is situated.
- 11.6 In the case of a vehicle (required to be fit for purpose and used solely for the performance of a special procedure/s), application will be made to the local authority where the vehicle is, or is likely to be driven, used or kept. For example, the local authority in which the registered keeper of the vehicle resides. If the registered keeper lives outside Wales, application should be made to the local authority to which the vehicle will be taken in order to perform the special procedures, or if more than one location, where the majority of the procedures will be performed. If an individual has a fixed premises and a vehicle, each has to be applied for separately.
- 11.7 Premises and vehicles have to be applied for separately to enable each application to be processed as efficiently as possible. If a vehicle and premises were on the same form, they would both have to be inspected, and this may delay the issue of the premises and vehicle approval certificates, should one part require further investigation.
- 11.8 For both premises and vehicles, the special procedures premises/vehicle approval certificate will be valid for three years, after which time the individual will have to apply for renewal; or for temporary arrangements, not exceeding seven days (see [section 13](#) where this is discussed).
- 11.9 **If the premises owner/operator also intends to perform special procedures themselves, they will still need to have their own special procedure licence as well as a premises/vehicle approval certificate. If the applicant already holds a special procedure licence, it does not guarantee that the premises/vehicle approval certificate will be granted as the approval process is separate.**
- 11.10 Section 69(8) allows Welsh Ministers to make regulations which exempt descriptions of premises and/or a vehicle from the requirements to be approved and/or comply with mandatory conditions of approval. For example, NHS or private

healthcare settings or vehicles which are regulated by Health Inspectorate Wales. We have proposed to make an exemption for NHS or private healthcare settings or vehicles which are regulated by Health Inspectorate Wales in limited circumstances to allow exempted individuals to practise. This is discussed in [section 7](#).

Approval criteria and pre application requirements

11.11 **We propose** that all applicants should meet the following approval criteria before application can be made for a premises/vehicle approval certificate:

- **The applicant is 18 years of age or older**
- **Has passed a regulated Level 2 infection prevention and control qualification for special procedures**
- **The premises or vehicle meets all required standards as set out in premises/vehicle approval condition**
- **The applicant makes a declaration of relevant offences**
- **The applicant has public liability insurance or comparable insurance arrangements in place**
- **Application fee**

11.12 **The minimum age for eligibility to apply for a premises/vehicle approval certificate will be 18.** The applicant must ensure that the premises or vehicle to which the application relates complies with the mandatory approval conditions for the special procedures which are intended to be undertaken. **We propose** that holders of trainee special procedure licences will not be able to apply for a premises licence in their own right or be nominated as a person in charge of a premises until such time as they hold a full special procedure licence.

Documentary evidence to be provided

11.13 We anticipate that applicants for a special procedures premises/vehicle approval certificate will need to provide documentary evidence of the following with their application form, or their application will not be processed:

- Verification of name and date of birth. Acceptable proof will be any one of the individual's following documents: passport, driving licence or other appropriate photo ID)
- Verification of current residential address – this may be the same document as above, but could also be a document such as a utilities bill or council tax statement
- The floor plan of the premises/vehicle. This should be an annotated drawing of all of the rooms that form part of the special procedures business and are part of the application
- Basic DBS check for the person or persons named as in control of the premises/vehicle (if this is not the applicant) on the application form. If the person is from outside the UK and is not eligible for a DBS check, a 'certificate of good character' issued by the country where they previously operated.

These certificates should be no older than 28 days before the date of the application form.

- Proof of successful completion of a regulated Level 2 award in infection prevention and control for special procedures qualification.
- Proof of valid public liability insurance or similar insurance arrangements

11.14 The approval criteria and documentary evidence have been based on the licensing criteria and documentary evidence required for the practitioner licence (see [Section 6](#)).

11.15 The floor plan can be drawn by hand, but it must be to scale and accurate, clear and legible. It should show:

- The maximum number of special procedure practitioners that can operate at any one time
- The position of all rooms and workstations (including the area where the special procedure(s) are to be performed, toilets, staff rooms and waiting areas)
- Doors and windows
- Fixtures and fittings, including wash hand basins, equipment sinks, and storage areas
- Notes and titles can also be added for explanation.

11.16 A person may apply for both a special procedure licence and a premises/vehicle approval certificate at the same time, on completion of the relevant forms, provision of supporting documents and payment of the relevant fees.

The application process

11.17 Applicants may apply in either Welsh or English as all application materials will be available in both languages, and their application will be dealt with via their language of choice. On receipt of each premises/vehicle approval certificate application form, the required documentation and fee, the local authority will look at the information provided by the applicant and determine whether the application can proceed to the next stage. Local authorities may ask for further information to better explain that which has already provided by the applicant if they consider that the information is incomplete.

11.18 The local authority will notify the applicant when the application has cleared the initial process. The applicant will then be invited to make an appointment for a local authority officer to make an inspection visit, at which the applicant must be present, and any others named on the form as in control of the premises (if not the applicant). This visit will be for the officer to inspect the premises/vehicle, equipment, any record keeping systems and to talk through special procedures processes to be undertaken at the premises and to check that the information provided in the application form including the floor plan reflects the standards found at the premises. As a result of this inspection visit, the local authority may recommend one of the following:

- Approve the premises/vehicle and grant the premises/vehicle approval certificate
- Make recommendations as to any additional works that must be completed to the standard required by the local authority, who will then grant the premises/vehicle approval certificate, or
- Refuse the application, giving reasons why the application is refused and the next steps that can be followed.

Refusal of a premises/vehicle approval certificate and appeals

11.19 Welsh Ministers have regulation-making powers about appealing against the refusal of an application for approval. **We propose** that these regulations will require that if the local authority refuses an application, they must give a notice of refusal to the applicant, setting out the reasons for the refusal and advising of the right of appeal. The right of appeal will be to firstly the magistrates' court and ultimately the Crown Court. If the local authority's decision is upheld, the premises/vehicle will not be approved for the performance of special procedures.

Approval of a special procedures premises/vehicle approval certificate

11.20 When the applicant has successfully completed all stages of the application process, the local authority will notify them that their application has been approved and their special procedures premises/vehicle approval certificate is granted. Section 71 sets out what the certificate must contain; the approval and expiry date, the special procedures approved to be undertaken at the premises or vehicle, the address of the premises and in the case of a vehicle, the registration number (or where not present identity of the vehicle as considered appropriate).

11.21 Welsh Ministers may make regulations outlining further provisions regarding the form and content of the approval certificates. This is discussed in [section 4](#) and the certificate we propose to mandate is in [Annex C](#). **We propose** that the certificate should also include:

- The name of the person who is responsible for the approved premises/vehicle
- The maximum number of workstations permitted in the premises/vehicle.

11.22 We are proposing that a maximum number of workstations should be set for each premises because the provision of sufficient space in treatment areas, particularly for each workstation, is one of the most important considerations in maintaining a good standard of infection control. The maximum number of workstations that can be operated in any given treatment area/room will be determined by the space available. The principle should be to maintain sufficient space for special procedures activities to take place and to avoid cross contamination between adjacent workstations and between the practitioner and the client. The mode of infection (direct, indirect, splash and airborne) is a basic concept in preventing cross-infection and has direct implications for the prevention of infection.

- 11.23 It is anticipated that the mandatory approval conditions relating to the premises/vehicle will accompany the certificate.
- 11.24 The special procedures premises/vehicle approval certificate will be valid for three years. The date of approval and expiry, ID number, name of licensee, approved premises/vehicle and authorised procedures will be incorporated in a public register of special procedures.
- 11.25 It will be a requirement that the special procedures premises/vehicle approval certificate is displayed in a prominent place in the approved premises/vehicle, such as in the window or door where customers can see it before entering the premises/vehicle. The approval certificate is discussed at [section 4](#) and can be seen at [Annex C](#).

Questions related to 11: premises/vehicle approval certificates approval criteria and application process

Question 25 - Do you agree with the proposed approval criteria for premises/vehicle approval applications and the supporting documents listed? Are there other documents applicants should supply?

Question 26 – Do you agree that holders of trainee practitioner licences should not be able to apply for a premises/vehicle approval certificate in their own right or be nominated as the person in charge of a premises on an application?

Question 27 – Do you agree with the proposals about appealing against the refusal of an application for premises and vehicle approvals as set out in paragraph 11.19?

Question 28 - Do you agree that the approval certificate should also include the name of the responsible person and the maximum number of workstations in that premises/vehicle?

Summary – Premises and Vehicle Approval Certificates

- Applies to acupuncture (including dry needling), body piercing, electrolysis and tattooing (including semi-permanent makeup).
- If you are responsible for a premises or vehicle in which any of those special procedures will be performed, you will need to get a premises/vehicle approval certificate. You can apply in Welsh or English.
- This applies to everyone – even if your premises is currently registered with your local authority under the 1982 Act.
- If you have a premises/vehicle approval certificate, you still need to have a special procedures practitioner licence if you intend to perform any of the procedures yourself. You can apply for a special procedure licence at the same time as the premises/vehicle approval certificate.
- All special procedures practitioners working in your approved premises/vehicle will need to be licenced whether they are employees or rent a chair or room within your premises.
- There are some things you need to do before you can apply for a premises/vehicle approval certificate. These include getting a floor plan of the areas of the premises that will be used for the procedures, getting a basic DBS check, making sure your public liability insurance is up to date, proving your identification and passing a regulated Level 2 infection prevention and control qualification in special procedures. These are the criteria which we will propose in this consultation and attach a question to.
- You will apply to the local authority where the premises is located, or where the vehicle is, or is likely to be driven, used or kept. If you live outside Wales and intend to bring a vehicle to Wales to practice from, you should apply to the local authority where you will do most of your work. They will want to speak with you and inspect the premises or vehicle as part of the application process.
- If you are responsible for more than one premises, you have to make a separate application for each premises to the local authority each one is situated in. Even if you have two premises in the same local authority.
- We have proposed that the application process and the fees are the same wherever you apply in Wales.
- Your premises/vehicle approval certificate will have mandatory approval conditions that you have to follow – these will be the same for all similar premises or vehicles in Wales.
- Your premises/vehicle approval certificate will set out what special procedures your premises is approved for. It will be valid for either three years or no more than seven days for temporary events.

12. Mandatory premises/vehicle approval conditions

- 12.1 We have set out an example of suggested mandatory premises/vehicle approval conditions. in [Annex D2](#). **Please read these carefully as these provide examples of what could be included in the final regulations.** These mandatory conditions would currently apply to all approved premises and vehicles. This would include temporary approvals relating to premises and vehicles. However, the Welsh Ministers have regulation making powers under section 70 which would allow different mandatory approval conditions to be applicable to different premises and vehicles. Therefore, we would welcome your comments in this respect.

Variations to existing premises/vehicle approval certificates

- 12.2 It is recognised that certificate holders for premises/vehicles may wish to vary or change the details of their premises/vehicle approval Certificate while it is still valid. This may be for a range of reasons, including changing the procedures the premises/vehicle is licensed for, change of ownership or a change in working operations or design layout. It is envisaged that these changes will be made through the completion of a variation form. Local authorities can charge a fee for processing the variation form.
- 12.3 If a premises is changing business or management, a full new application needs to be made for which local authorities can charge a fee, even if the premises continues trading during the transfer. This is because the new management may make alterations to premises, procedures or staffing that have previously been approved. Completion of a regulated level 2 Infection Prevention and Control qualification and premises liability insurance will also need to be validated.
- 12.4 Should a premises/vehicle cease to be used for special procedures for whatever reason while its certificate is still valid, the certificate holder may notify the local authority of their intention. **We propose** that this should be a requirement and that they must also follow any other instructions they are given by the local authority to cease practise and surrender their licence.
- 12.5 If a certificate holder ceases practice and surrenders their premises/vehicle approval certificate, they must make a new application should they wish to resume practice in future.

Renewals of existing premises/vehicle approval certificates

- 12.6 Certificate holders will need to apply every three years to renew their premises/vehicle approval certificates in advance, no later than 28 calendar days before the expiry date shown on their certificate.
- 12.7 If there have been changes since the certificate was last renewed, a variation form would need to be included with the renewal application.

- 12.8 All applications for renewal of premises/vehicle approval certificates will attract an application fee and where variations or changes of procedures are to be added to the certificate or variations of work are to be made, these will be subject to the same process of determination (including requirement for an inspection) as a first application for a special procedure premises/vehicle approval certificate.

Questions related to 12: mandatory premises/vehicle approval conditions

Question 29 – Do you have any comments on the example mandatory premises/vehicle approval conditions set out in Annex D2?

Question 30 – We propose that we make regulations under section 70 of the Act relating to the variation and renewal process for premises approval certificates to make them consistent with the variation and renewal process for practitioner licences. Do you agree?

13. Temporary special procedure licences and premises/vehicles approval certificates of no more than seven days

- 13.1 The Act allows for temporary licences and certificates of no more than seven days to be issued for the licensing of practitioners and the approval of premises and vehicles. There are a number of different time limited circumstances when application for these types of licences and approvals would be appropriate.
- 13.2 For practitioners who do not operate in Wales or choose only to perform special procedures on an infrequent basis and therefore do not hold their own three-year special procedure licence:
- doing a 'guest spot' at an approved premises (or vehicle)
 - performing special procedure/s at an industry/trade event or convention
 - undertaking special procedure/s at a festival (music, arts or community).
- 13.3 For premises/vehicles which is not the subject of a three-year premises/vehicle approval certificate:
- Event organiser responsible for the organisation, operation and management of a temporary event such as an exhibition, convention or open-air festival
 - An individual who wishes to hire space/accommodation, use their vehicle or set up a temporary structure at a festival or event to perform special procedure/s
- 13.4 Temporary licences and premises/vehicle approval certificates will be valid for no more than seven days, depending on the circumstances of each event for which they are issued. They therefore may only be valid for one day up to seven days. A new application will therefore need to be made by the organiser or practitioner for each event.

Temporary special procedure licence

- 13.5 Any special procedure practitioner who wishes to work in Wales on a temporary basis (for example, when attending an event to demonstrate their work) must apply to the relevant local authority in which they wish to work temporarily for a temporary special procedure licence. This will be issued for a period of time not exceeding seven days. If a temporary premises/vehicle is already identified on their three-year licence then they do not need to vary their licence. Where it's not identified, they need to vary their licence to identify that temporary premises/vehicle for that temporary event/exhibition.
- 13.6 **We propose** that the same licensing criteria will apply as that of a three-year special procedure licence, including the requirement to have a regulated Level 2 Infection Prevention and Control qualification. The practitioner will need to submit the application form with the necessary documents no later than 28 days before the temporary special procedure licence is required.

Temporary premises/vehicle approval certificates

- 13.7 Section 69 of the Act treats the organiser of the event as the person carrying on a special procedures business for the duration of the event, and the premises at which the event will be held as the business premises.
- 13.8 In the case of an industry/trade event, exhibition or conference the event organiser will make an application to the local authority in which the event/exhibition will take place for a temporary premises approval certificate. The event organiser would be responsible for ensuring that the premises/vehicle is approved by the local authority and that the premises/vehicle can comply with the mandatory approval conditions. The event organiser will need to submit an application with the necessary documents no later than 56 days before the event is due to commence.
- 13.9 The Welsh Ministers have regulation making powers that allow certain premises/vehicles to be exempt from these requirements (i.e., being approved and/or comply with mandatory approval conditions). We have set out our proposals to exempt certain premises/vehicles from these requirements (see [section 7](#)). In respect of temporary events/exhibitions we propose that all premises/vehicles must be approved by the local authority. These premises/vehicles will also be subject to mandatory approval conditions. At present temporary premises/vehicles would be subject to the same mandatory approval conditions as all premises/vehicles. Regulations can be made so that specific mandatory approval conditions could apply to temporary approvals of premises/vehicles (please see paragraph 12.1 and accompanying question).
- 13.10 **We propose** that when applying for a temporary premises/vehicle approval certificate, the event organiser will be required to fulfil the same proposed approval criteria as an applicant applying for three-year premises approval certificate unless

they already hold a valid three-year special procedure licence or premises/vehicle approval certificate.

13.11 An approval certificate must state the 'approval date'. For temporary approvals this means a period for which the approval to which it relates is to have effect i.e., a period of no more than seven days, beginning with the date on which the approval certificate is issued.

13.12 Approval certificates must include specific information (see paragraph 11.21). The Welsh Ministers can make regulations which add further detail and say what else must be included within the approval certificate itself. We propose that temporary approval certificates would require the same proposed additional information as the three-year premises/vehicle approval certificate:

- The name of the person who is responsible (which could be the event organiser) for the approved premises/vehicle
- The maximum number of workstations permitted in the premises/vehicle.

Questions related to 13: temporary practitioner licences and premises vehicle approval certificates of not more than seven days

Question 31 - Should temporary approvals for premises and vehicles be subject to the same mandatory approval conditions as all premises and vehicles? If not, what specific mandatory approval conditions (if any) should apply to temporary approvals for premises and vehicles?

Question 32 – Do you agree that requiring the same licensing criteria for a temporary practitioner licence as for a three-year licence is proportionate?

Question 33 – Do you think that it is proportionate for an event organiser applying for a temporary premises approval certificate to meet the same approval criteria as for a three-year premises approval certificate?

Question 34 – Do you agree that all premises/vehicles linked to temporary events/exhibitions must be approved by the local authority? If not, why not?

Question 35 – Should all premises/vehicles linked to temporary events/exhibitions be subject to mandatory approval conditions?

Question 36 – Do you agree further information should be set out within a temporary approval certificate (as suggested in paragraph 13.12)? What other information should be required (if any)?

14. Public Register of Special Procedure Licences and Premises/Vehicle Approval Certificates

14.1 Section 75 of the Act places a duty on all Welsh local authorities to maintain and publish a register of all currently valid special procedure licences and premises/vehicle certificates that they have approved. The register must be available to members of the public to consult. The Act sets out the information about licences/certificates that the register must contain.

14.2 For special procedure licences this includes:

- the name of the licence holder
- the date on which the licence was issued
- the special procedure(s) the licence holder is licensed to perform
- the licence period (three years or the maximum of seven days for temporary licences).

14.3 For premises approval certificates this includes:

- the name of the person on whose application the certificate was granted
- the address of the premises at which the performance of the special procedure is authorised
- the special procedure(s) covered by the certificate
- the date on which the certificate was granted
- the duration of the certificate (three years or the maximum of seven days for temporary approvals).

14.4 For vehicle approval certificates this includes:

- the name of the person on whose application the certificate was granted
- the registration number of the vehicle
- where a vehicle does not have a registration number, whatever identifying details of the vehicle the authority considers appropriate
- the special procedure(s) covered by the certificate
- the date on which the certificate was granted
- the duration of the certificate (three years or the maximum of seven days for temporary approvals).

14.5 The register must record this information as a minimum mandatory requirement, and by making an application, the applicant effectively consents to the publication of this information about the licence/certificate if it is approved. The intention behind this requirement is to provide a public record of licences/certificates that have been approved and are still current so that local authorities and prospective clients may check to see a practitioner's, premises or vehicle's licence and approval status. Local authorities can include other information in this public register if they consider it appropriate to do so, but any additional information of this kind will need to be agreed for all of Wales. Any additional information will be confined to that relating to the licence or approval certificate, not the individuals who hold them, such as:

- the licence/certificate ID number
- whether it is a trainee licence
- details of date of inspection (for premises/vehicles)
- any enforcement action taken against the practitioner or the person responsible for a premises/vehicle, to include issue of remedial action notices, stop notices and prosecutions.

14.6 **We also propose** that the data collected will be anonymised and used for monitoring purposes, to include:

- Number of practitioner licences approved by special procedure (three-year and not more than seven days)
- Number of premises/vehicle approval certificates approved (three-year and not more than seven days)
- Number of variations and renewals processed
- Number of remedial action notices issued
- Number of stop notices issued
- Number of revocations processed
- Number of reactive and proactive visits made to practitioners and premises.

14.7 Section 75 also allows for Welsh Ministers to make arrangements for a central register to be set up and maintained on an all-Wales basis by one local authority on behalf of all 22 Welsh local authorities. This has the benefit of ensuring that the data published by each local authority is available in one place, for ease of use by the public and to share the administrative task of maintaining the register by all 22 local authorities. The register will therefore cover the whole of Wales and will be available online for the public to consult.

14.8 At the time of this consultation, local authorities have made representations to Welsh Ministers that they wish to pursue the option of having one central register for the whole of Wales to which they will all contribute. This public register will be online and the IT work to create the online register and the database of licences and approvals that will drive it has been commissioned. It is the intention, therefore, that when Part 4 of the Act comes into force (including the regulations in relation to the licensing scheme), the Welsh Ministers will exercise their powers under section 75 and appoint a lead local authority to host the central register and will require all Welsh local authorities to participate in and contribute towards the cost of such arrangements and the sharing of information with the lead local authority.

15. Fees

15.1 Broadly speaking, the provisions relating to fees within the Act were carefully drafted to ensure they comply with the case of *Hemming v Westminster City Council*. There is no provision within the Act for Welsh Ministers to prescribe the amount of fees to charge under the new licensing scheme. Therefore, when charging a fee under the licensing scheme, all local authorities are required to

comply with the provisions of the Act as well as reminding themselves of the necessary case law principles.

Licence application fees

- 15.2 The Act is clear that where a local authority has the power to charge a fee in relation to applications for licences, the amount of fee to be charged is determined by the local authority. The power for local authorities to determine the fee for a licence application is found in paragraph 3(2) of Schedule 3 to the Act. That fee (if any) is to be set by the local authority having regard to the costs incurred or expected to be incurred by the authority in connection with dealing with applications (paragraph 3(3)).
- 15.3 However, Welsh Ministers may make regulations (under paragraph 4(4)(a) of Schedule 3) about the way in which a local authority is to determine the amount of the fee that is to accompany an application made to it. Local authorities have experience of setting fees on a national basis, and it is anticipated that all 22 local authorities will agree between themselves the amount of fees to be charged for all aspects of the mandatory licensing scheme for the whole of Wales including renewal and variation fees, and that fees will be reviewed and agreed every three years to be consistent with the renewal cycle.
- 15.4 The Act is also clear that local authorities can require a fee in relation to the renewal of a licence (Paragraph 9(3)(c) of Schedule 3) and the variation of a licence (Paragraph 12(1)(b) of Schedule 3). **We propose** that the regulations would therefore require each local authority to have a consistent approach in how they determine an application fee amount setting out, for example, what a local authority must take into account when determining the level of that particular fee and provisions for review/agreement of the level of fee charged every three years.

Premises/vehicle approval application fees

- 15.5 Under section 70, Welsh Ministers have regulation-making powers to make provision about the way in which applications for premises/vehicle approval are to be made and dealt with (including for the payment of a fee in respect of an application). Welsh Ministers may also make regulations around the renewal and variation of approvals. Therefore, it is anticipated that the local authority will be able to charge a fee in respect of renewals and variations of approvals as well as an application for a copy approval certificate. The regulations may include provision about how a local authority is to determine the amount of a fee payable in respect of applications. Provision will also be made about the consequences of failure to comply with a requirement to pay a fee (including permitting the local authority to decline to proceed with the approval application) (section 70(8)).
- 15.6 **We propose** that the regulations would require each local authority to have a consistent approach in how they determine an approval application fee amount setting out for example what a local authority must consider when determining the application fee including provisions for review/agreement of the level of the application fee charged every three years.

Section 76 fees

- 15.7 Separate to the initial application fees for licences and approval certificates, the Act enables a local authority to charge a fee to the holder of a special procedure licence or a premises or vehicle approval certificate. This fee will be charged after a licence or an approval certificate is granted and is to cover the cost of the day-to-day running of the scheme, including support and advice to licence holders, enforcement, investigation of complaints, monitoring compliance and visits. The local authority has the power to determine the section 76 fee for licences and premises/vehicles approvals (section 76(3)). The section 76 fee may be applied either periodically or otherwise for as long as the licence/approval has effect. Again, this section has been drafted to ensure that a local authority is compliant with the principles of the *Hemming v Westminster City Council* case.
- 15.8 Under section 76 Welsh Ministers may make regulations:
- about the way in which a local authority is to determine the amount of the section 76 fee, having regard to the costs incurred or expected to be incurred by the authority
 - the way the section 76 fee is paid and repaid (in cases of overpayment)
 - recovery of an unpaid section 76 fee.
- 15.9 **We therefore propose** that regulations are drafted that make provision on how local authorities can determine the amount of a section 76 fee, (having regard to the cost incurred or expected to be incurred by the authority) as well as the way the fee is paid, repaid or recovered if unpaid.
- 15.10 In relation to the recovery of unpaid fees we propose the following courses of action by the local authority:
- if an individual has not paid a section 76 fee, they would not be able to progress with an application to renew/vary a licence or premises/vehicle approval certificate until the outstanding fee is paid
 - an individual would not be able to re-apply for a new licence/approval (until the outstanding fee is paid)
 - the local authority could choose to recover the outstanding section 76 fee due by way of a civil debt.

Questions relating to 15: fees

Question 37 - Do you agree that the fees in relation to licence application fees should be determined in the way outlined in paragraphs 15.3 and 15.4?

Question 38 - Do you agree that the fees in relation to premises/vehicle approval application fees should be determined in the way outlined in paragraphs 15.5 and 15.6?

Question 39 – Do you agree that the regulations should make provision on how local authorities should determine the amount of fee charged to a licence or premises/vehicle approval holder under section 76 in the way outlined in paragraphs 15.7 – 15.9?

Question 40 – Do you agree with our proposal regarding recovery of section 76 unpaid fees in the way outlined in paragraph 15.10?

16. Enforcement

Revocation of a licence

16.1 Section 68 of the Act allows a local authority to revoke a special procedure licence under certain conditions set out in the Act. The revocation may be for the whole licence, or just particular special procedures included within the licence. **No regulations are required to be made for this section of the Act, and as such does not form part of this consultation. We present the information here by way of completeness to fully explain how the proposed scheme will operate in practice.**

16.2 The conditions fall into a number of categories:

- **Non-compliance with licensing conditions:** if a practitioner has failed to comply with applicable mandatory licensing conditions and the non-compliance presents a significant risk to human health.
- **Relevant offences:** if the licence holder is convicted of a relevant offence, either after the licence was issued, or the local authority was not aware of it when the licence was issued and if they had been, they would not have issued the licence at all, or would not have licensed a particular special procedure.
- **False or misleading statements:** if the licence holder made false or misleading statements when applying for the licence (or any variation or renewal) and the local authority, if they had received accurate information, would not have issued the licence or would not have licensed a particular special procedure.

16.3 A practitioner may appeal against a decision to revoke a licence initially to the local authority's licensing committee, then through the magistrates' court and Crown Court if necessary.

Revocation of an approval

- 16.4 Section 73 of the Act allows a local authority to revoke a special procedures premises/vehicle approval certificate if it satisfied that certain conditions are met. These conditions are that the mandatory approval conditions that apply to the premises or vehicle (as required) have not been complied with, and that this non-compliance presents or could present significant risk of harm to human health. In order to revoke the approval, the local authority must serve a notice on the person who applied for the approval.
- 16.5 An individual may appeal the local authority's decision to revoke an approval by applying to the local authority's licensing committee, the magistrates' court and the Crown Court if necessary.

Stop notices

- 16.6 Under section 77, a local authority may issue a stop notice if it is aware of an individual performing a special procedure in its area: without a licence or who is carrying on a business from a premises or vehicle that has not been approved.
- 16.7 The aim of the stop notice is to prohibit the carrying out of the special procedure specified in the notice. Breach of a stop notice is an offence (section 82(4)) and is punishable by an unlimited fine. The stop notice must be provided to the person concerned and contain certain information such as the reason for the stop notice, details of the prohibition and information about their right to appeal against it (section 81 of the Act). The stop notice will apply anywhere in Wales and be effective until the person obtains the relevant licence or approval.

Licence holder remedial action notices

- 16.8 Under section 78 of the Act, a local authority can issue a remedial action notice to a licence holder if it becomes aware that the licence holder is breaching an applicable mandatory licensing condition. A remedial action notice must state the matters giving rise to the breach and the steps the licence holder must take to comply with the licensing conditions. If the local authority is satisfied the breach of licensing condition presents or could present significant risk to human health, the notice may also prohibit the performance of a special procedure until the steps specified in the notice have been taken. The notice may relate to the performance of the procedure in an area of Wales (e.g. the local authority's area) or may extend to the whole of Wales.
- 16.9 The notice must specify the compliance period (no less than 14 days) within which the licence holder should take the specified steps. If the local authority is satisfied the steps specified in the notice have been taken, it must issue a completion certificate (please see the relevant section on completion certificates). The

remedial action notice must provide details of the licence holder's right of appeal (section 81 of the Act).

- 16.10 While contravention of a remedial action notice is an offence (section 82(5)) and is punishable by an unlimited fine, the local authority must not begin proceedings against the licence holder until the compliance period has expired. If the licence holder takes the steps specified in the notice within the compliance period, no proceedings for an offence can be taken by the local authority. The local authority will, however, be able to undertake proceedings if the licence holder continues to practice a special procedure despite the prohibition placed upon their practice. In addition to the remedial action notice, the local authority may also revoke a special procedure licence if the licence holder fails to comply with an applicable mandatory licensing condition.

Approved premises and vehicles remedial action notices

- 16.11 Similarly to the above, under section 79 of the Act, a local authority is able to issue a remedial action notice to a person in respect of an approved premises or vehicle. The notice may be issued if a local authority is satisfied that the person is breaching an applicable mandatory condition of approval. The notice must specify the reason(s) for the breach and the steps the licence holder must take to secure compliance. If a local authority is satisfied that the breach of the mandatory approval condition presents or could present significant risk of harm to human health, the notice may also prohibit the performance of the special procedure at the premises or in the vehicle, until the steps specified in the notice have been taken. In this case, the local authority must take reasonable steps to bring the notice to the attention of anyone it thinks is likely to be affected by it (for example, licence holders listed as operating from the premises or vehicle).
- 16.12 The notice must specify the compliance period (which must not be less than 14 days) within which the licence holder should take the specified steps. If the local authority is satisfied that those steps have been taken, it must issue the licence holder with a completion certificate to discharge the notice. The notice must also provide details of the person's right to appeal (section 81 of the Act). Contravention of the notice is an offence (section 82(6)) and is punishable by an unlimited fine. However, the local authority must not begin proceedings until the compliance period has expired. If the person takes the steps specified in the remedial notice within the compliance period, no proceedings for an offence can be taken by the local authority. The local authority will, however, be able to undertake proceedings if the person continues to practice the special procedure from the premises or vehicle specified in the notice, despite the prohibition. In addition to the remedial action notice, the local authority may also revoke a premises or vehicle approval if the person fails to comply with a mandatory approval condition.

Completion certificates

- 16.13 Under section 80 of the Act, if a local authority is satisfied that the steps specified in a remedial action notice it has issued (as above) have been completed, it must provide the person with a completion certificate discharging the notice. The local authority must also take reasonable steps to bring the completion certificate or notice to the attention of anyone it thinks is likely to be affected.
- 16.14 Section 80 also provides that a person subject to the notice may apply to the local authority for a completion certificate at any time. The process and the information required for this will be specified by the local authority. If the local authority refuses the application, it must give notice of this to the person. In addition, the reasons for the refusal and information about the appeals process (see section 81) must be provided to the person.

Appeals against stop notices and remedial action notices

- 16.15 An individual may appeal to the magistrates' court against a local authority issuing a stop notice or a remedial action notice, or a refusal to grant a completion certificate. The appeal is to be made to the magistrates' court in accordance with the Magistrates' Courts Act 1980 within 21 days of the notice that is being appealed. However, bringing an appeal does not suspend the notice.
- 16.16 The magistrates' court may consider the appeal and can uphold the notice or refusal, quash or vary the notice, or quash a refusal to grant a completion certificate. In all cases, the magistrates' court can direct the local authority in what action it has to take and can make an order as to who pays the costs. Where the magistrates' court quashes or varies a notice, or quashes a refusal to issue a completion certificate, the court can order the local authority to compensate the licence holder/premises certificate holder for loss suffered as the result of the notice such as loss of income due to the local authority's decision to prevent them from working.
- 16.17 The local authority or the licence holder/premises approval certificate holder can appeal the decision of a magistrates' court on an appeal by making application to the Crown Court. The Crown Court can confirm, vary or reverse the magistrates' court's decision, vary or reverse it, and may refer the case back to the magistrates' court or local authority with directions as to how the case is to be dealt with.

17. Offences and penalties

- 17.1 Section 82 of the Act creates offences related to various contraventions of the provisions for special procedures licensing and approvals. As the offences are set out on the face of the Act, regulations are not required, and section 82 will be commenced when the licensing scheme comes into force. Therefore section 82 is not subject to consultation. The offences covered in section 82 are:

- Contravention of section 58 – performing a special procedure specified in the Act without having a special procedure licence when they are not exempt.
- Contravention of section 61 (3)(c) – performing a special procedure specified in the Act when there is a prohibition in place.
- Contravention of section 69(2) – performing a special procedure specified in the Act in a premises or vehicle that does not have the appropriate premises/vehicle approval certificate (without reasonable cause).
- Continuing to perform special procedures or to operate from a premises or vehicle without the relevant licence/premises approval certificate when a stop notice under section 77 is in place (without reasonable cause).
- Contravening (without reasonable cause) a licence holder remedial action notice served under section 78.
- Contravening (without reasonable cause) a premises/vehicle remedial action notice served under section 79.
- Making a false or misleading statement (either knowingly or recklessly) when making an application for the issue, variation or renewal of a special procedure licence or for approval of a premises/vehicle approval certificate. The false or misleading statements are in relation to anything that would otherwise cause the local authority to not grant the licence/certificate, variation or renewal (for example, making a false statement about being convicted of a relevant offence).

17.2 A person who commits an offence under section 82 of the Act is liable on summary conviction to an unlimited fine.

17.3 In addition, under section 89, any person who intentionally obstructs an authorised officer, who is carrying out their duties, entering a premises or making an inspection as set out in sections 84-88 commits an offence. A person will be committing an offence if they fail to comply with particular matters relevant to section 88(1) of the Act and do so without reasonable cause. This may include failure to provide facilities or assistance, produce items for inspection or provide information commits an offence. A person found guilty of such an offence is liable on summary conviction to a fine not exceeding level three on the standard scale, which is currently £1,000.

18. Local authority enforcement powers

18.1 Sections 83-92 of the Act set out the powers available to local authorities for enforcement purposes, and the terms under which these powers must be exercised. The powers are applied to any premises at which special procedures have been, are currently, or likely to be carried out at that premises, or any material or equipment intended for use in special procedures is stored or prepared at the premises. These sections define authorised officers for the purpose of the

Act and deal with powers relating to the investigation and enforcement of special procedures, including:

- powers of entry
- obtaining of warrants to enter a dwelling or other premises
- powers of inspection and examination of items on the premises
- removal of items and obtaining of evidence, and the terms under which these powers must be exercised
- obstruction of officers
- power to make test purchases
- appeals against property being retained
- applications for compensation against retained or appropriated property.

18.2 These are standard powers for local authority enforcement officers and these particular sections will be commenced when the licensing scheme comes into force. Therefore, no regulations are required to be made.

19. Impact Assessments

19.1 As part of this consultation document, we have published a draft Regulatory Impact Assessment which sets out the impacts we consider these draft regulations will have on regulatory bodies.

19.2 We have also published a separate Integrated Impact Assessment which contains the mandatory and additional impact assessments that are required to be undertaken for all Welsh Government policies.

19.3 These documents can be seen on the Welsh Government website:
<https://www.gov.wales/mandatory-licensing-special-procedures-wales>

19.4 We invite consultees to comment on the contents of these impact assessment documents.

20. Questions we would like to ask you

20.1 We would like your opinions on our proposals, and whether any amendments should be made to enhance their clarity of content. Annex B has a list of questions you may wish to consider. You are invited to make your responses to us on the form provided which can be completed in hard copy and sent to us by post. It can also be downloaded from the webpage for this consultation and emailed to us. The same questions are also presented as an online questionnaire that can be accessed from the webpage for this consultation.

PLEASE NOTE: The Public Health (Wales) Act 2017 received Royal Assent in July 2017. This consultation cannot therefore revisit the provisions of Part 4 of the Act. This consultation concentrates on what is required to implement Part 4 and to establish and maintain a mandatory licensing system for Wales within the requirements of the Act.

21. What happens next

- 21.1 We welcome comments on this consultation document until **19 April 2023**, after which date we will consider all the responses received.
- 21.2 Following this consideration, advice and recommendations will be put to the Minister for Health and Social Services for consideration based on what people have told us in their consultation responses. This will include initiating the legislative process to make the necessary regulations to enact those sections of Part 4 of the Act set out in this document to establish a mandatory special procedures licensing system for Wales.
- 21.3 We will publish the details of the responses received and any revisions approved by the Minister for Health and Social Services in due course.
- 21.4 We anticipate that the completed set of draft regulations will be the subject of a further public consultation, which we anticipate will run for 12 weeks.
- 21.5 Following this second consultation and any final amendments that may be required, the regulations will be laid before the Senedd and debated under the affirmative procedure at a future date to be agreed in 2023. The regulations if passed will be published on the coming into force date, which will be determined as part of the legislative process. The published regulations will be made available to the public, special procedures practitioners and businesses, and local authorities at that date along with further guidance.

Annex A – Consultation Distribution List

Representative Organisations

British Acupuncture Council
British Medical Acupuncture Society
Acupuncture Association of Chartered Physiotherapists
Chartered Society of Physiotherapists
National Hair and Beauty Federation
Federation of holistic therapists
Save face
British Tattoo Artists Federation
Federation of Tattooing
Joint Council for Cosmetic Practitioners
British Association of Beauty Therapy and Cosmetology
British Beauty Council
British Institute and Association of Electrolysis
UK Association of Professional Piercers
Tattoo and Piercing Industry Union
Forum for Private Business
Welsh Retail Consortium
Equality and Human Rights Commission
WCVA
TUC Cymru
CBI Wales
British Federation of Small Businesses
Federation of Small Businesses – Wales

Commissioner Offices

Welsh Language Commissioner
Children's Commissioner
Information Commissioner

Government/Local Government

Ministry of Justice
Chief Executives of Local Authorities in Wales
Local Government Regulation
Welsh Local Government Association

Health

Chief Executives, Medical Directors and Nurse Directors of:
Abertawe Bro Morgannwg University Health Board
Aneurin Bevan University Health Board
Betsi Cadwaladr University Health Board
Cardiff and Vale University Health Board
Cwm Taf Morgannwg Health Board
Hywel Dda University Health Board
Powys Teaching Health Board
Swansea Bay University Health Board

Velindre NHS Trust
Welsh Ambulance Service Trust
Royal College of Nursing
LHB Directors of Public Health
Royal College of Physicians
Royal College of GPs
Community Health Councils

Public Health

Public Health Wales
Association of Directors of Public Health
Faculty of Public Health
Chartered Institute of Environmental Health
Royal Society of Public Health
Local authority Environmental Health leads
Welsh Combined Centres for Public Health
Directors of Public Protection Wales
All Wales Communicable Disease Expert Panel
All Wales Health and Safety Expert Panel
Wales Heads of Trading Standards
Chartered Trading Standards Institute
Public Service Ombudsman Wales
Environmental Health Wales
All Wales Licensing Expert Panel

Annex B – Consultation Response Questionnaire

Mandatory Licensing Scheme for Special Procedures in Wales

Your name:	
Organisation (if applicable):	
Email:	
Your address:	

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Please return this form to reach the Welsh Government no later than **19 April 2023**. The email address for responses or queries is:

SpecialProceduresMailbox@gov.wales

This form can be downloaded or the online response questionnaire accessed from the Welsh Government website here:

<https://www.gov.wales/mandatory-licensing-special-procedures-wales>

We welcome responses in Welsh or English.

	Please give reasons for your answers when responding.
1.	Do you agree with our proposals to mandate the form and content of a special procedure licence and the premises/vehicle approval certificate within regulations? Is there anything else that should be included in the format of these documents?
2.	Do you agree with our proposal to make regulations about further provision (as set out in paragraph 4.13)?
3.	Do you agree that nine months is a sufficient transition period? If not, what should it be?
4.	Do you agree that the proposed minimum age for applicants for special procedure licences is appropriate?
5.	Do you agree with the proposed licensing criteria for special procedure licences and the supporting documents listed? Are there other documents applicants should supply?
6.	Do you agree with the proposal that applicants should evidence their competence in the special procedure(s) they wish to perform? If you agree, how should that be demonstrated, and what documentary evidence should be produced?
7.	Do you agree that the current descriptions of relevant offences are sufficient? If not, why?
8.	Do you agree with the principle of this proposal that regulations should be made to limit the exemptions on members of the listed professional bodies in section 60?
9.	Do you agree with the principle of this proposal that regulations should be made under section 69 to apply exemptions to premises at which exempt members of these professional bodies will practise?
10.	Do these exemption principles for individuals and premises adequately protect the safety and health of the client?
11.	Do you agree with the principle of this proposal that the statutory registered HCPC named professions of chiropodists/podiatrists; physiotherapists; prosthetists/orthotists should be exempt? Are there other professions on this register that should have an exemption?

12.	Do you agree with the principle of the proposal that members of voluntary registers accredited by the PSA should not be exempt?
13.	Do you have any comments on the example mandatory licensing conditions for all special procedures as set out in Annex D1?
14.	Do you agree the specific mandatory licensing conditions at Annex D1 are proportionate to the risks presented by each type of special procedure?
15.	Do you agree that the creation of a trainee licence is a proportionate way of dealing with trainees on regulated courses and apprentices following regulated and unregulated apprenticeships? If you don't agree, how should they be dealt with?
16.	Do you agree that the minimum age for a practitioner to perform any of the special procedures should be 18?
17.	Do you agree that the minimum age for a client to obtain any of the special procedures (notwithstanding the proposed exceptions listed) should be 18?
18.	Do you agree that the outlined obtaining of consent and accompaniment by a parent/guardian for procedures for people under 18 where not otherwise prohibited provides sufficient safeguards?
19.	Do you agree that 16 is an appropriate age for a person to obtain a piercing of the eyebrow, lip, nose or ear cartilage without parental/guardian consent?
20.	Should piercings to any other part of the face be permitted from the age of 16? If so, why?
21.	Do you agree that prohibiting the tattooing of eyeballs in the tattooing licensing conditions is sufficient to prevent this from being performed by licensed practitioners?
22.	Is the proposal to require in licensing conditions that practitioners discuss the impact of facial and other visible procedures with clients and record the discussion sufficient to address the concerns?

23.	Do you agree with the proposed definition for ‘object’ as it applies to body piercing?
24.	Do you agree that prohibiting the use of a scalpel or similar bladed instrument in the body piercing licensing conditions is sufficient to prevent body modifications that extend beyond a body piercing procedure?
25.	Do you agree with the proposed approval criteria for premises/vehicle approval applications and the supporting documents listed? Are there other documents applicants should supply?
26.	Do you agree that holders of trainee special procedure licences should not be able to apply for a premises/vehicle approval certificate in their own right or be nominated as the person in charge of a premises on an application?
27.	Do you agree with the proposals about appealing against the refusal of an application for premises and vehicle approvals as set out in paragraph 11.19?
28.	Do you agree that the approval certificate should also include the name of the responsible person and the maximum number of workstations in that premises/vehicle?
29.	Do you have any comments on the example mandatory premises/vehicle approval conditions set out in Annex D2?
30.	We propose that we make regulations under section 70 of the Act relating to the variation and renewal process for premises approval certificates to make them consistent with the variation and renewal process for special procedure licences. Do you agree?
31.	Should temporary approvals for premises and vehicles be subject to the same mandatory approval conditions as all premises and vehicles? If not, what specific mandatory approval conditions (if any) should apply to temporary approvals for premises and vehicles?

32.	Do you agree that requiring the same licensing criteria for a temporary special procedure licence as for a three-year licence is proportionate?
33.	Do you think that it is proportionate for an event organiser applying for a temporary premises approval certificate to meet the same approval criteria as for a three-year premises approval certificate?
34.	Do you agree that all premises/vehicles linked to temporary events/exhibitions must be approved by the local authority? If not, why not?
35.	Should all premises/vehicles linked to temporary events/exhibitions be subject to mandatory approval conditions?
36.	Do you agree further information should be set out within a temporary approval certificate (as suggested in paragraph 13.12)? What other information should be required (if any)?
37.	Do you agree that the fees in relation to licence application fees should be determined in the way outlined in paragraphs 15.3 and 15.4?
38.	Do you agree that the fees in relation to premises/vehicle approval application fees should be determined in the way outlined in paragraphs 15.5 and 15.6?
39.	Do you agree that the regulations should make provision on how local authorities should determine the amount of fee charged to a licence or premises/vehicle approval holder under section 76 in the way outlined in paragraphs 15.7 – 15.9?
40.	Do you agree with our proposal regarding recovery of section 76 unpaid fees in the way outlined in paragraph 15.10?
41.	<p>We would like to know your views on the effects that the mandatory licensing scheme for Special Procedures in Wales would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.</p> <p>What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?</p>
42.	Please also explain how you believe the proposed mandatory licensing scheme for Special Procedures in Wales could be formulated or changed

	<p>so as to have</p> <ul style="list-style-type: none"> • positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and • no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.
43.	We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Annex C – Mandated Special Procedures Licensing Certificates

Special Procedure Licence

FORM AND CONTENT FOR APPROVAL OF PRACTITIONER IN RESPECT OF PERFORMANCE OF SPECIAL PROCEDURE (SCHEDULE 3)

To be printed on A4 paper
To be printed in colour
To be printed in portrait paper orientation
Bilingual

Special Procedures Premises/Vehicle Approval Certificate

FORM AND CONTENT FOR APPROVAL OF PREMISES AND VEHICLES IN RESPECT OF PERFORMANCE OF SPECIAL PROCEDURE (SECTION 71)

To be printed on A4 paper
To be printed in colour
To be printed in portrait paper orientation
Bilingual

LA LOGO

**Tystysgrif Trwydded Triniaeth Arbennig
Special Procedure Licence
Rhif /Number: WG/#####**

Mae **Cyngor #####**, o dan ddarpariaethau **Rhan 4** o **Ddeddf Iechyd y Cyhoedd (Cymru) 2017**, *drwy hyn yn awdurdodi'r* person a enwir isod i gynnal y triniaethau arbennig canlynol ar a hyd at ##### dyddiad

The Council of #####, under the provisions of the **Part 4** of the **Public Health (Wales) Act 2017**, *hereby authorises* the person named below to carry out the following special procedures on and up to the ##### date

Enw llawn y Trwyddedai / Full name of Licensee: TRWYDDEDAI / LICENSEE

Llun diweddar o'r Trwyddedai / Recent photo of Licensee: LLUN / PHOTO

**Yn y Fangre/Cerbyd Cymeradwy canlynol:
In the following Approved Premises/Vehicle:**

- Enw, Cyfeiriad, Cyfeirnod / Name, Address, Ref No.
- Enw, Cyfeiriad, Cyfeirnod / Name, Address, Ref No.
- Rhif cofrestru cerbyd, Cyfeirnod / Vehicle registration No., Ref No.

Y triniaethau a awdurdodwyd i'w cyflawni gan yr ymarferydd hwn yw / Procedures authorised to be carried out by this practitioner are:

Aciwbigo / Acupuncture (ii) Tyllu'r corff / Body piercing (iii) Electrolysis / Electrolysis (iv) Tatwio / Tattooing

**Dyddiad cyhoeddi / Date of Issue:
Dyddiad dod i ben / Date of Expiry:**

Cyfeiriad a manylion cysylltu'r awdurdod lleol / Local Authority address and contact details:

**NI ELLIR TROSGLWYDDO'R DRWYDDED HON
THIS LICENCE IS NOT TRANSFERABLE**

LA LOGO

**Tystysgrif Cymeradwyo Mangre / Premises/Vehicle Approval Certificate
Rhif Cymeradwyo / Approval Number: WG/#####**

Mae **Cyngor #####**, o dan ddarpariaethau **Rhan 4** o **Ddeddf Iechyd y Cyhoedd (Cymru) 2017**, drwy hyn yn cymeradwyo defnyddio'r fangre/cerbyd canlynol at ddibenion y triniaethau arbennig ar a hyd at **###** dyddiad

The Council of #####, under the provisions of the **Part 4** of the **Public Health (Wales) Act 2017**, hereby approves the use of the following premises/vehicle for the purposes of the special procedures on and up to the **###** date

Enw'r Person sy'n cynnal y busnes / Name of the Person carrying on the business:
Enw / Name

Enw a chyfeiriad y fangre (yn cynnwys cod post) / Name and address of premise (including postcode):

Yn achos cerbyd: Rhif cofrestru

In the case of a vehicle: Registration number

Cyfeiriad y mae'r cerbyd yn gweithredu ohono: Cyfeiriad

Address from where the vehicle operates: Address

Llun diweddar o'r fangre/cerbyd / Recent photo of premises/vehicle:
LLUN / PHOTO

Mae'r triniaethau canlynol wedi'u hawdurdodi i gael eu cynnal yn y fangre hon:
The following procedures are authorised to be carried out at this premises:

- (i) Aciwbigo yn cynnwys nodwyddo sych / Acupuncture including dry needling
- (ii) Tyllu'r corff / Body piercing
 - a. Llabed y glust / Ear Lobe
 - b. Y glust gyfan / Whole Ear
 - c. Y trwyn / Nose
 - d. Rhannau personol o'r corff / Intimate
- (iii) Electrolysis / Electrolysis
- (iv) Tatwio / Tattooing
- (v) Colur lled-barhaol / Semi-permanent make-up

Mae X o ymarferwyr trwyddedig wedi'u cymeradwyo i weithredu o'r fangre hon ar unrhyw adeg benodol / X number of licensed practitioners are approved to operate from this premise at any one time:

Cyfeiriad a manylion cyswllt yr awdurdod lleol / Local Authority address and contact details:

**NI ELLIR TROSGLWYDDO'R DRWYDDED HON
THIS APPROVAL CERTIFICATE IS NOT TRANSFERABLE**

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D1 - MANDATORY CONDITIONS FOR ALL SPECIAL PROCEDURE LICENCES

Introduction

The mandatory licensing conditions are applicable to all special procedure licences issued by local authorities in Wales unless otherwise stated. There are also additional mandatory conditions specific to each individual special procedure performed, to trainees/apprentices and to those practitioners that train and supervise these activities

The special procedure licence is valid for a period of three years or no more than seven days (in respect of a temporary event) from the date of approval.

The licensed practitioner must operate in accordance with the issued licence and conditions in order that the licence is retained.

Officers of the local authority authorised under the Public Health (Wales) Act 2017 shall be admitted at all reasonable times to the premises or vehicle where the licensed practitioner operates from and shall be permitted access to all parts of the approved premises or vehicle associated with the work of the licensed practitioner.

The Officers are authorised to inspect on behalf of the local authority and to give written notifications of matters noted during inspection which are not in accordance with the licence conditions or other matters which may be capable of harm to human health.

Mandatory licensing conditions

1. The licensed practitioner must operate in accordance with the issued licence and conditions and only undertake those special procedures they are licenced to perform in an approved premises or vehicle. Failure to comply with the mandatory licensing conditions may lead to revocation of the practitioner licence and formal enforcement action, which includes the service of notices which can immediately prohibit the practitioner performing a special procedure, the requirement to implement remedial actions within a specified time period, fines and prosecution.
2. Licensed practitioners must have their photo licence, licence or copy thereof and a copy of the mandatory conditions relevant to the special procedures undertaken as issued to them by the local authority and this must be available at all times to view by authorised officers of the local authority and customers on request.
3. Licensed practitioners operating from an approved premises or vehicle must display their special procedure licence in a conspicuous place at all times, in proximity to where they work, so it is capable of being easily read by customers.
4. The special procedure licence is only valid in respect of the practitioner named on the licence. The certificate cannot be transferred to any other practitioner.

5. The special procedure licence must not be altered, erased or defaced in any way, must be kept clean and legible and must not be lent to or used by any other person.
6. In the event of the licence becoming mislaid, stolen or damaged, the licence holder must obtain a replacement from the issuing authority on payment of the prescribed fee.
7. Changes to the special procedure licence may only be made by the issuing local authority after an application to vary has been approved by that authority. Applications for variation must be made within 28 days of the change occurring.
8. Application for the renewal of the special procedure licence MUST be made to the issuing authority a minimum 28 calendar days before the expiry date of the current licence. Should the application process be delayed, the original licence will be deemed valid until the new licence is approved but only if the application is submitted within the specified time period. The expired licence must be returned to the issuing local authority according to the instructions provided by them.
9. The issuing local authority must be informed by the licensed practitioner of any criminal convictions for relevant offences obtained during the licensing period within 28 days of the conviction. The information to be provided should include offence, date of conviction, the court which issued the conviction, sentence/penalty imposed, duration of sentence (if applicable).
10. The licensed practitioner must have valid treatment indemnity insurance covering the range of special procedures offered for the duration of their licence.
11. Appropriate treatment insurance certificates MUST be readily available for inspection by authorised officers of the local authority or available to be viewed by clients upon request.

Client consultation and verification of age of client

12. A client consultation must be carried out by the licensed practitioner undertaking the procedure prior to that or any other special procedure being undertaken. This MUST include verification of the age of the client, matters relating to the health and well-being of the client on whom the special procedure is to be performed and a full explanation of the procedure and the associated risks, contraindications and social impacts. The practitioner should satisfy themselves that the client has understood the pre-treatment consultation advice and is capable of giving informed consent having regard to that advice for the procedure to be undertaken.
13. The licence holder MUST also provide written information, in an easy-to-understand format, to every prospective client to explain:
 - The process of the special procedure
 - The risks of the procedure
 - The contraindications to the special procedure

14. The licence holder **MUST** ensure that every prospective client has read and understood the above information prior to undertaking the special procedure.
15. The licence holder **MUST** ensure that a pre-treatment questionnaire used as part of the client consultation is completed for each client, which has been signed by the operator and countersigned by the client and the parent/guardian who was present (if applicable to the age of the client).
16. If the client consultation is carried out by anyone other than the person performing the special procedure, the licensed practitioner undertaking the special procedure must review the consultation questionnaire prior to the special procedure being performed.
17. Where any contraindications are identified during the consultation, before the procedure is undertaken the practitioner must:
 - confirm and record the advice given
 - where action is required by the client, record the action required, and that action is completed to the satisfaction of the practitioner
 - where the practitioner requires the client to seek medical advice from their GP or medical consultant prior to the treatment carried out, the practitioner must satisfy themselves that the client has sought and acted on the advice given. The client and their parent/guardian (if applicable) should sign a declaration that they have received medical advice, confirm what the advice was and confirm that they are content to continue with the procedure. The practitioner should countersign this declaration. A copy of this information must be retained on the written records of the client's personal details
 - record the decision as to whether the procedure can be performed.
 - where the treatment/procedure involves more than one session, follow-up sessions can simply include an updated signed declaration that there have been no changes to the health of the client.
18. Following a special procedure, clear and concise aftercare advice **MUST** be provided by the practitioner to the client. It must be given orally and in written form for the client to take away and must include the contact details of the practitioner. The aftercare advice must be in an easy-to-understand format. The practitioner must satisfy themselves that the client has understood the aftercare advice.
19. A special procedure **MUST NOT** be performed on an individual who is, or appears to be, intoxicated, whether by virtue of drink, drugs or any other means.

Record keeping

20. Client records **MUST** be maintained for a minimum of three years after the final procedure was performed: Client records should include the following:
 - Name, address and contact details of the client
 - Date of birth
 - Relevant medical history

- Procedure undertaken, including position on the body, type of jewellery/ink or pigment used (if applicable), batch numbers (if applicable)
 - Name and licence number of the practitioner who carried out the procedure
 - Date and time when the procedure/s was undertaken
 - Details of any reported problems associated with the procedure
 - A summary of the advice given to the client at the pre-treatment consultation and a summary of the aftercare instructions, and any other advice given following the procedure.
21. A licensed practitioner has the right to refuse to perform a special procedure on a client. The reasons for this decision should be recorded and maintained on the client's records.

Infection control

22. Where the licensed practitioner becomes aware of any risks associated with or present within the approved premises or vehicle that are capable of causing harm to human health, they **MUST** bring those risks to the attention of the approved premises certificate holder.
23. Where the approved premises or vehicle or any part thereof is capable of causing harm to human health the licensed practitioner must not undertake any special procedure until action has been taken to mitigate the harm.
24. The licensed practitioners must only use equipment and instruments that are so designed and made of materials that enable effective cleaning, disinfection and where appropriate sterilisation. They must be in such good order and repair so as to enable effective cleaning, disinfection and where appropriate sterilisation.
25. Equipment, instruments and products must:
- Be stored and maintained so as to avoid, as far as possible the risk of contamination.
 - Be cleaned, disinfected or sterilised in accordance with manufacturer's instructions.
 - Only be used for the purpose they were intended and in accordance with manufacturer's instructions.
 - Be purchased from reputable suppliers, contain CE/UKCA marking or the equivalent and where appropriate be accompanied by product data sheets to demonstrate that the appropriate quality tests have been carried out.
26. Any single-use needles, instruments, or other items of equipment that are inserted into the skin or come into contact with the skin or mucous membrane while the skin or mucous membrane is pierced as part of the special procedure must be sterile immediately before use.
27. Needles must be sterile and single use.
28. Only disposable, single-use safety razors are to be used.

29. The licensed practitioner must not undertake a special procedure on a client's skin where there are, or they suspect there, are signs of infection, rashes, cuts, wounds or other injuries.
30. The licensed practitioner must not undertake a special procedure on a client if they suspect the client is not fit and well.

Standards of hygiene and first aid

31. The licenced practitioner must ensure that:
 - All special procedures are undertaken in conditions of appropriate privacy.
 - They maintain adequate and effective hand hygiene before, during and after a special procedure.
 - Their hands are kept clean and washed immediately prior to performing any special procedure.
 - They maintain a high degree of personal cleanliness and must wear suitable, washable, clean and appropriate clothing.
 - They wear a disposable plastic/single-use apron while performing the procedure and that this must be changed in between each client or following a break in the procedure.
 - Single-use, disposable personal protective clothing including aprons and gloves must be immediately disposed of following completion or a break in the procedure.
 - With the exception of undertaking acupuncture, they wear single-use vinyl or non-latex gloves while carrying out the procedure. New gloves must be used for each client, if there is a break in the procedure, or if equipment that has not been disinfected is touched.
 - They check the integrity of the gloves throughout the procedure and change the gloves immediately if a break or tear is suspected or observed.
 - They do not perform a special procedure while afflicted by either a known or suspected ailment or being a carrier or case of a disease likely to be transmitted during a procedure.
 - They cover any open sores, cuts, boils or open wounds on an exposed part of the body with an impermeable dressing.
 - They do not smoke or consume food or drink in the area where the special procedure is performed.
32. The licenced practitioner must ensure that:
 - All fittings and equipment associated with the workstation where the special procedure is to be performed are cleaned and disinfected immediately in advance of the special procedure being performed on a client.
 - Any couch, table, chair or other item of furniture used by a client during the procedure is covered by a disposable paper sheet, towel or similar and that this is changed for every client.

- Any wrapping, items or equipment used during the procedure, and which are not re-usable, are disposed of immediately after use in an appropriate waste receptacle.
 - An adequate supply of disposable gloves, coverings and aprons and sterile single use needles are maintained.
 - There is a suitably stocked, readily accessible first aid kit which meets the needs of the special procedure practised as advised by the Health and Safety Executive.
 - There is an adequate number of body fluid kits.
33. The licensed practitioner must:
- Carry out an assessment of the condition of the skin where the special procedure is to be performed prior to commencing the procedure.
 - NOT use any topical anaesthetic unless it is used in accordance with the licence conditions approved by the Medicines and Healthcare Products Regulatory Agency (MHRA).
 - Ensure that no products are used after their expiry date
 - Ensure that the client's skin is clean before the procedure is carried out.
 - If the client's skin is or is suspected of being dirty, wash the area with soap and water before using an alcohol-based solution to disinfect (solution of 70% alcohol in 0.5% chlorhexidine or single use wipes containing 70% alcohol) or a suitable alternative. This should be used in accordance with manufacturer's guidelines.
 - Make up a fresh solution to wipe the procedure site for each client or use single use wipes.
 - If marking the skin prior to treatment use a single-use water-based marker pen.
 - A documented suitable and sufficient cleaning schedule must be used by the licensed practitioner.
34. The licensed practitioner must have and use a procedure for dealing with body fluid spillages.
35. The licensed practitioner must have and use a procedure for dealing with needle stick injuries.
36. The licensed practitioner must use, as appropriate, the cleaning, disinfection and sterilisation equipment, facilities, and arrangements provided by the approved premises or vehicle.
37. The licensed practitioner must effectively sterilise any instruments that come into contact with mucous membranes or broken skin during the special procedure or becomes contaminated with blood.
38. Where machines are used to sterilise, disinfect or clean equipment or instruments they must be strictly used in accordance with the manufacturer's instructions and accompanied by documented records to demonstrate that the appropriate quality tests have been carried out to validate the use of that machine for the purpose it was intended to be used.

39. The licensed practitioner must only use sterilisation, disinfection or cleaning methods that have been validated for that purpose.
40. All licensed practitioners must perform special procedures in accordance with the Mandatory Approval Conditions for the approved premises or vehicle where they are licensed to work.

2. Tattooing including micro pigmentation, microblading and any procedure which inserts any colouring material designed to leave a semi-permanent or permanent mark in punctures made in an individual's skin

Prohibitions on performing procedure

1. Tattooing anyone **under** the 18 years of age is prohibited, unless performed for medical reasons by a duly qualified medical practitioner or by a person working under his/her direction.
2. For those clients wishing to receive a tattoo to the face, neck or hands, the client consultation must include the advice given by the licensed practitioner and written confirmation that the client has understood the advice.
3. The tattooing of an eyeball is prohibited by any licenced special procedure practitioner performing tattooing.

Procedure-specific infection control

4. Pigments and inks must have detailed data sheets which provide an expiry date and confirms sterility and ingredients.
5. Pigments and inks must be sterile at first use. Pigments must be dispensed into single-use pots or pre-packed in single use vials.
6. If pigments or inks are to be diluted only sterile water must be used.
7. The colour/batch code, delivery and expiry date of each pigment/ink used on a client should be recorded with client records at the time tattooing procedure is undertaken.
8. Only sterile water must be used to rinse instruments and equipment while tattooing is being performed.
9. Only single-use needles and tips must be used.

3. Body piercing

Prohibitions on performing procedures

1. A licensed practitioner must not make arrangements to perform an intimate piercing on a person or perform an intimate piercing on a person who is under the age of 18. Intimate body parts are the:
 - anus
 - breast, (including the nipple and areola)
 - buttock
 - natal cleft
 - penis (including the foreskin)
 - perineum
 - pubic mound
 - scrotum
 - tongue
 - vulva.
2. With the exception of ear lobes, ear cartilage, nose, lip or eyebrow, the licensed practitioner must not perform any piercing on a person under the age of 18.
3. The licensed practitioner is permitted to perform earlobe piercing where a person is aged 16 years or older, or a person is under the age of 16 years and written consent has been given by the parental/legal guardian and that person is present at the pre-procedure client consultation and the same person is also present when the procedure is performed. The person being treated must also give their written consent separately.
4. The licensed practitioner is permitted to perform ear cartilage, nose, lip or eyebrow piercing on a person aged 16 or older without parental/guardian consent or the parent/guardian being present at the pre-procedure client consultation or procedure.
5. Licensed practitioners are prohibited from using a scalpel or any similar bladed instrument or tool to create a wound during the piercing procedure.
6. For those clients wishing to receive a piercing to the face, neck or neck the client consultation must include the advice given by the licensed practitioner and written confirmation that the client has understood the advice.

Procedure-specific infection control

7. All jewellery or objects which come or may come into contact with skin or mucous membrane during the piercing process must be purchased from reputable suppliers either as pre-sterilised or sterilised before use.

8. Any needle, cannula, biopsy punch, taper, connection pin/rod, needle receiving tube, needle blank or any other instrument used for the purpose of perforating the skin or mucous membrane with the view to enabling jewellery or objects to be attached to, implanted in or removed from the body must be single use and pre sterilised.
9. Any needle, cannula, biopsy punch, taper, connection pin/rod, needle-receiving tube, needle blank or any other instrument used for the purpose of perforating the skin or mucous membrane with the view to enabling jewellery or objects to be attached to, implanted in or removed from the body must be purchased from reputable suppliers.
10. All jewellery or objects must be of a suitable grade, e.g. surgical stainless steel, solid 14K or 18K gold, niobium, titanium, platinum, or dense low porosity plastic.
11. If the client is having a tongue or genital piercing, single-use marker pens must be used and disposed of immediately after use.
12. For tongue piercing, a sterilised clamp must be used.
13. Any clamps used for skin folds, lopped forceps, pliers and receiving tubes or other instruments that are in close contact with pierced skin or mucous membrane must be cleaned and sterilised before use or be single use.
14. Vernier calipers should only be used on clean, unbroken skin. They must be cleaned and disinfected between uses. If they are used for oral or genital piercings, they must be single use or capable of being sterilised.
15. Where equipment and instruments come into contact with mucous membranes, broken skin or are contaminated with blood and are to be reused, they must be effectively cleaned prior to sterilisation.

4. Ear and nose piercing (using a cartridge system)

Prohibitions on performing procedures

1. With the exception of earlobes and nose, the Licensed Practitioner must not perform any piercing on a person under the age of 18 years.
2. The licensed practitioner is permitted to perform earlobe piercing where:
 - A person is aged 16 years or older, or
 - A person is under the age of 16 years and written consent has been given by the parental/legal guardian and that person is present at the pre-procedure client consultation and the same person is also present when the procedure is performed. The person receiving the procedure must also give their written consent separately.

3. The licensed practitioner is permitted to perform nose piercing on a person aged 16 or older without parental/guardian consent or the parent/guardian being present at the pre-procedure client consultation or procedure.
4. For those clients wishing to receive a piercing to the face or neck, the pre-treatment client consultation must include the advice given by the licensed practitioner and written confirmation that the client has understood the advice.

Procedure-specific Infection Control

5. A sterile cartridge and pre sterilised jewellery or object supplied in packaging which indicates the part of the body for which it is intended must be used.
6. All jewellery, objects or instruments which may come into contact with broken skin or mucous membrane when piercing is undertaken must be purchased from reputable suppliers and be single-use and pre-sterilised.
7. All jewellery or objects must be of a suitable grade, e.g., surgical stainless steel, solid 14K or 18K gold, niobium, titanium, platinum, or dense low porosity plastic.
8. If the client's skin requires marking up prior to the procedure taking place, then it should be done with a single-use pen or single-use implement and non-toxic ink must be used to mark the piercing site. This implement or pen should then be disposed of immediately after use.
9. Any equipment that is not single use and has been contaminated with blood or other bodily fluids, however small, must be cleaned and effectively sterilized or disposed of.
10. The re-usable piercing instrument must be cleaned and disinfected prior to and following each use.
11. Cartridges to be used in the ear/nose piercing system must be sealed, within the expiry date and in good condition prior to use. Any damaged or blistered packs must not be used and must be discarded.
12. The piercing instrument must be used in accordance with the manufacturer's instructions. This includes the loading and unloading of the cartridge.
13. The disposable cartridge must never be reloaded and used for multiple piercings, even on the same client.

5. Acupuncture (including dry needling)

Prohibitions on procedure

1. A licensed practitioner must not perform acupuncture on persons under the age of 18 years unless written consent has been given by the parent/legal guardian and the same person is present at the pre-treatment client consultation and during the treatment. The person being treated must also give their written consent separately.
2. A licensed practitioner must not perform acupuncture on the intimate body parts of persons under the age of 18 years (as defined in the intimate piercing regs).

Procedure-specific infection control

3. A licensed practitioner must thoroughly wash and dry their hands immediately before performing acupuncture on each client.
4. A licensed practitioner must wear disposable, well fitting, surgical gloves that have not previously been used with another client where:
 - the client is bleeding or has an open lesion on an exposed part of his/her body, or
 - the client is known to be infected with a blood-borne virus; or
 - the licensed practitioner has an open lesion, broken skin or a skin infection on his/her hand; or
 - the licensed practitioner is handling items that may be contaminated with blood or other body fluids.
5. A licensed practitioner must undertake acupuncture in a premises or vehicle that has an approval premises certificate. However, where a client is unable to leave their home, the licensed practitioner may perform acupuncture in that client's home if the following requirements are fulfilled:
 - undertake and record an audit of the area where acupuncture is to be performed having due regard to any risks that are capable of causing harm to human health. This must be undertaken on every occasion acupuncture is to be performed.
 - Where the audit identifies any risk that is capable of causing harm to human health the acupuncturist must take appropriate action to mitigate the harm before undertaking acupuncture or avert from undertaking this procedure until the harm has been removed.
 - must maintain each audit with client records and make these available to the local authority officer authorised under the Public Health (Wales) Act 2017.

6. Electrolysis

Prohibitions on procedure

1. A licensed practitioner must not perform electrolysis on persons under the age of 18 years unless written consent has been given by the parent/legal guardian and the same person is present at the pre-treatment client consultation and during the treatment. The person being treated must also give their written consent separately.
2. A licensed practitioner must not perform electrolysis on the intimate body parts of persons under the age of 18 years (as defined in the intimate piercing regs).

7. Practitioners who train, supervise or assess trainees in educational settings for regulated qualifications and apprenticeships

Duties of a trainer/supervisor/assessor

1. Ensure that trainees are aware of their legal responsibilities under Part 4 of the Public Health (Wales) Act 2017.
2. Provide trainees with information and advice on how and when they should apply for a licence.
3. Ensure that trainees only commence performing the special procedure on an individual at the educational establishment when they have obtained a trainee special procedure licence.

8. Practitioners who train, supervise or assess nonregulated apprentices or trainees in any other approved premises.

1. The number of apprentices designated to a licensed practitioner is restricted to the facilities available at the approved premises and the supervisor's capacity to effectively supervise the apprentice while performing the special procedure.

Duties of a trainer/supervisor/assessor

2. Maintain secure, accurate and up-to-date records of the apprentice/trainee they have responsibility for.
3. Ensure that the apprentice/trainee is aware of their legal responsibilities under Part 4 of the Public Health (Wales) Act 2017.

4. Provide the apprentice/trainee with information and advice on how and when they should apply for a restricted licence.
5. Ensure that the apprentice/trainee only performs the special procedure on an individual when they have obtained a special procedure licence with restriction and while under their supervision.

9. Apprentices and trainees

1. The licensed apprentice/trainee must only perform the special procedure under the supervision of their designated tutor/supervisor and in the approved premises stated on their licence.
2. Once qualified, the licensed apprentice/trainee is required to apply to the local authority who issued their licence to change their practitioner status. Without this update they will not be permitted to legally perform the special procedure in Wales.
3. Should the licensed apprentice/trainee fail to qualify, withdraw from the apprenticeship/training course or decide that they no longer wish to perform special procedures in Wales they must notify the local authority who issued their trainee licence in writing using the Notice of Voluntary Termination of Approval form. Their licence will then be revoked.

D2 - Mandatory premises and vehicle approval conditions

Introduction

The mandatory approval conditions are applicable to all approval certificates issued for premises or vehicles in relation to special procedures unless otherwise stated

An approval certificate is valid for a period of three years or no more than seven days (in respect of a temporary event) from the date of approval.

The approved premises or vehicles must operate in accordance with the issued approval certificate and the mandatory conditions in order that the approval is retained.

Officers of the local authority authorised under the Public Health (Wales) Act 2017 shall be admitted to the premises or vehicle at all reasonable times and be permitted access to all parts of that premises or vehicle associated with the operation of special procedures.

The officers are authorised to inspect on behalf of the local authority and to give written notifications of matters noted during inspection which are not in accordance with the approval conditions or other matters which may be capable of harm to human health.

Mandatory approval conditions

1. The holder of the approval certificate must operate in accordance with the issued approval certificate and conditions. Failure to comply with the mandatory approval conditions may lead to revocation of the approval certificate and formal enforcement action, which includes the service of notices which can immediately prohibit the practitioner performing a special procedure, the requirement to implement remedial actions within a specified time period, fines and prosecution.
2. Approved premises or vehicles must have the approval certificate or copy thereof and a copy of the mandatory approval conditions relevant to the special procedures undertaken and this must be available at all times to view by authorised officers of the local authority or any customer upon request.
3. The approval certificate for the premises or vehicle shall be displayed at or near the customer entrance. The certificate must be displayed in a conspicuous place where it is capable of being easily read by customers before they enter the premises or vehicle when it is open for business.
4. Only special procedures which are specified on the approval certificate can be performed at that premises or vehicle.
5. The approval certificate is only valid in respect of the premises or vehicle named on the certificate. The certificate cannot be transferred to any other premises or vehicle.

6. Only licensed practitioners can perform special procedures in the approved premises.
7. The approval certificate must not be altered, erased or defaced in any way and must be kept clean and legible and must not be lent to be used by any other person.
8. In the event of the approval certificate becoming mislaid, stolen or damaged, the licence holder must obtain a replacement from the issuing authority on payment of the prescribed fee.
9. Changes to the approval certificate may only be made by the issuing local authority after an application to vary has been approved by that authority. Applications for variation must be made within 28 days of the change occurring.
10. Application for the renewal of the premises or vehicle approval certificate MUST be made to the issuing authority a minimum 28 calendar days before the expiry date of the current approval certificate. Should the application process be delayed, the original approval certificate will be deemed valid until the new certificate is approved but only if the application is submitted within the specified time period. The expired approval certificate must be returned to the issuing local authority according to the instructions provided by them.
11. The local authority must be informed of any relevant offences committed during the approval period by the person/s on whom the application was granted.
12. The person/s upon whom the application was granted must make suitable arrangements for public liability insurance cover for the premises or vehicle taking into account the range of special procedures offered for the duration of the approval period.
13. Evidence of the appropriate insurance certificate must be displayed or kept readily available on the premises or vehicle and be available for inspection by the visiting authorised officers from the local authority.

Matters relating to display notices and restricted access

14. A notice advising that special procedures will not be carried out on any person who is or appears to be intoxicated, whether by virtue of drink, drugs or other means must be prominently displayed in the waiting area of the premises or vehicle.
15. No eating or drinking is permitted in the treatment area and a notice or notices reading "No Eating or Drinking" must be conspicuously displayed in the rooms where the special procedures are undertaken
16. Animals are prohibited from rooms or areas where special procedures are performed, with the exception of assistance animals.

17. Persons other than the client, practitioner, trainee or apprentice and where appropriate, the parent or legal guardian are prohibited from rooms or areas where special procedures are performed.

Design, structure and physical environment

18. The design, structure or repair of the premises or vehicle must NOT be capable of causing harm to human health.
19. The approved premises or vehicle must be designed and of sufficient size to minimise this risk of cross infection or contamination and facilitate effective cleaning and when appropriate disinfection.
20. Workstations within the approved premises or vehicle should be located and designed so as to minimise the risk of cross infection or contamination.
21. Where separate rooms are not provided the person/s on whom the application has been granted shall ensure that the waiting area is physically segregated from the area where special procedures are performed.
22. The approved premises or vehicle must provide ready access to adequate toilet facilities for use by practitioners, staff and clients.
23. The toilet facilities must be provided with a dedicated wash hand basin with fitted with non-hand-operated taps and include an adequate supply of running hot and cold or mixed water, liquid soap and paper towels stored in a wall-mounted dispenser. Hand washing instructions should be clearly displayed at every basin. This must be separate to the one provided for hand washing prior to performing a special procedure.
24. The person on whom the application has been granted must ensure that the toilet facilities are maintained in good order and repair and capable of being effectively cleaned.
25. All furniture, fixtures, fittings, equipment and instruments used as part of the special procedure business or in the parts of the premises used by clients and practitioners must be of material and design that is fit for purpose, capable of being easily cleaned and kept in good order and repair so as to enable effective cleaning and where appropriate disinfection.
26. Adequate facilities must be provided for the hygienic storage and use of equipment, instruments and products used for or in conjunction with special procedures at the premises/vehicle so as to avoid, as far as possible the risk of contamination.
27. Suitable arrangement and facilities must be provided for the secure storage, management and retrieval of clients' records relating to the special procedures they are offered and received.

28. Internal walls, doors, windows, partitions, floors, floor coverings, ceiling or any part of the structure in any part of the premises used by the client and practitioner must be kept and be capable of being kept in good order, repair and condition to facilitate effective cleaning and assure fitness for purpose.
29. Lighting must be suitable and sufficient to ensure safe operation of the premises or vehicle and to facilitate effective cleaning and disinfection.
30. Suitable and sufficient local lighting should be provided at each workstation to ensure the safe and hygienic performance of the special procedure.
31. Suitable and sufficient means ventilation must be provided to all rooms within the approved premises/vehicle.
32. The approved premises or vehicle must be supplied with a drainage system that is fit for purpose and is not capable of causing harm to human health.
33. An adequate number of easily accessible wash hand basins must be provided and be in good working order and repair and be suitably located in every area where special procedures are performed so as to minimise the risk of cross infection.
34. Wash hand basins must be fitted with fit for purpose non-hand operated taps and include an adequate supply of running hot and cold or mixed water, liquid soap and paper towels stored in a wall-mounted dispenser in proximity to the wash hand basin.
35. Hand washing instructions should be clearly displayed at every basin.
36. Wash hand basin must **only** be used for the purposes of washing hands and forearms.
37. The approved premises or vehicle must have adequate provisions to secure good personal hygiene of all practitioners and staff working at the premises. This includes the provision of first aid kits and adequate supply of personal protective equipment and well stocked wash hand basins.

Decontamination, cleaning, disinfection and sterilisation

38. All parts of the approved premises or vehicle used by the clients and the practitioner must be kept clean and tidy.
39. A suitable and sufficient cleaning schedule for the premises, fixtures, fittings, furniture, equipment and instruments shall be in operation at the approved premises or vehicle.
40. Equipment, facilities and arrangements must be provided for the decontamination, cleaning, disinfecting and, where required, sterilisation of work tools, instruments and other items. This provision must be physically segregated from the areas/rooms

where special procedures are performed and should reflect the practices undertaken at the approved premises or vehicle.

41. All equipment used for the purpose of cleaning, disinfecting or sterilising must be maintained and serviced in accordance with manufacturer's instructions and be accompanied by documented records to demonstrate that the appropriate quality tests have been carried out to validate the use of that machine for the purpose it was intended to be used.

Waste including sharps

42. Adequate provision must be made for the removal and storage of waste and other refuse.
43. A sufficient number of non-hand-operated bins shall be provided in the treatment area and be appropriately constructed, kept in sound condition, and where necessary easy to clean and disinfect
44. Any needle, razor or other sharp item used in special procedures must be disposed of in a sharps container that is safely located away from clients and the general public.
45. Disposable articles, other than those above, contaminated or likely to be contaminated with blood/body fluids or tissues are classed as clinical waste.
46. Clinical waste must be disposed of in yellow bags, clearly marked 'clinical waste for incineration'.
47. All clinical waste (yellow bags and sharps boxes) must have their point of origin (name and address of business) marked on them prior to disposal.
48. Clinical waste must be collected by a licensed waste carrier. A record of consigned controlled waste shall be retained at the premises and available for inspection by the authorised officer from the local authority.

Annex E – Provisions of Part 4 and Schedule 3 of the Public Health (Wales) Act 2017

Section 57 – Special Procedures	This section sets out what is meant by a ‘special procedure’ i.e. acupuncture, body piercing, electrolysis and tattooing. Each of the procedures is defined in section 94(1) of the Act.
Sections 58, 59 and 61 Special Procedure Licences	These sections make provision about special procedure licences. General principles on who is required to have a licence to perform special procedures are set out in sections 58, 59 and 61.
Section 60 – Exempted Individuals	This section states that individuals who are members of specific professions (as qualified in Section 60(2) of the Act) are exempt from the requirement to be licensed unless regulations state otherwise. It further provides that regulations may also set out other registered professions and their members that could/should be exempt from the licensing requirement.
Section 62 – Special Procedure Licensing Criteria	“Licensing criteria” are the requirements that must be met by an applicant for a special procedure licence to be granted. This section provides further detail on what licensing criteria must be included within regulations.
Section 63 – Mandatory Special Procedure Licensing Conditions	This section requires that regulations made by the Welsh Ministers must set out mandatory licensing conditions which apply to special procedure licences. These conditions must be complied with to retain a special procedure licence.
Section 64 – Duty to Consult	This sets out the requirement for the Welsh Ministers to consider if there are any people who will be affected by regulations about licensing criteria and mandatory licensing conditions and to consult with them before any regulations are made. This consultation document is therefore issued in discharge of this requirement, and responses are particularly invited from local authorities, practitioners, representative bodies and members of the public.
Sections 65-68 – Determining Applications	These sections set out the things local authorities must consider when determining applications for licences or renewal applications, and the terms under which they grant or refuse those

	<p>applications. Section 66 allows the local authority to use its discretion when granting a licence if an applicant has been convicted of a relevant offence. Under section 66(10), regulations can be made to add, vary or remove a description of a relevant offence. Section 66(11) requires the Welsh Ministers to issue guidance to local authorities about matters to take into account when determining an applicant's fitness to practice. Section 68 deals specifically with revocations and sets out the terms under which a local authority may revoke a licence.</p>
<p>Sections 69 and 70 – Approval of Premises and Vehicles – Applicable Criteria and Conditions</p>	<p>Under section 69, a person carrying on a business where a special procedure is performed must comply with two requirements: the premises/vehicle has been approved by the local authority (under section 70) and complies with the applicable mandatory approval conditions. These approval requirements will apply in the case of an exhibition, entertainment or event and the organiser of such is responsible for ensuring premises are approved and conditions are complied with. Section 69(8) of the Act allows Welsh Ministers to make regulations to exempt certain premises or vehicles from the approval requirements.</p> <p>Section 70 allows a local authority to issue an approval certificate approving a premises/vehicle so that a special procedure (or number of special procedures) may be carried out there. Section 70 sets out various regulation making powers in relations to approvals, including applicable criteria that an application must meet, the circumstances in which an approval can be granted or not granted, the mandatory approval conditions to be complied with, the renewal of an approval, the variation of an approval etc.</p>
<p>Section 71 - Premises/Vehicle Approval Certificates</p>	<p>Sets out the specific detail of information that must be included in a premises/vehicle approval certificate. An approval certificate will last for a maximum of either seven days or three years. Section 71(4) allows for regulations to make further provision, if required, about the form and content of approval certificates.</p>
<p>Section 72 – Voluntary Termination of</p>	<p>Deals with how a person may give notice to a local authority and terminate a premises/vehicle</p>

Premises/Vehicle Approval	approval certificate. Section 72(5) however, allows regulations to be made to make further provision about voluntary termination notices and the information to be included.
Sections 73 and 74 – Revocation of Premises/Vehicle Approval	These set out the circumstances under which a local authority may revoke a premises/vehicle approval certificate and the notification they must give.
Section 75 – Duty to maintain register of special procedure licences and approved premises and vehicles	This places a duty on all local authorities to maintain a public register of all valid special procedure licences and premises/vehicle approval certificates they have issued. The minimum information that must be provided in the register is set out in this section. There is provision in this section for Welsh Ministers to arrange for a central register to be established, to be managed by one local authority, and to require all Welsh local authorities to participate in and contribute towards the cost of maintaining this central register, and to share information to allow the operation of this register.
Section 70, Section 76 and Schedule 3 – Special Procedure Licensing Fees and Premises/Vehicle Approval Fees	Section 70, section 76 and Schedule 3 to the Act set out when an LA may charge an application fee as well as the ability to charge a fee to the holder of a special procedure licence or a premises/vehicle approval certificate.
Sections 77-81 – Stop Notices and Remedial Action Notices	These sections make provision for local authorities to issue stop notices where a person is performing special procedures without a licence or at premises for which there is no premises/vehicle approval certificate in place, and for remedial action notices to be issued against licence holders or premises/vehicle approval certificate holders where there is a breach of licensing conditions. These sections set out what information must be included in the notices. Section 80 sets out how completion notices should be issued to indicate compliance with remedial action notices, and section 81 sets out the right of appeal against stop notices and remedial action notices and the court procedure that follows.
Section 82 and 89 – Offences	Section 82 sets out the offences that apply to Part 4 of the Act. Offences include operating without a licence/approval certificate, breaching licensing conditions, failing to comply with enforcement action, making a false or misleading statement

	<p>when applying for a licence or approval of a premises/vehicle.</p> <p>There is an additional offence set out in section 89 (obstruction of an authorised officer).</p>
Sections 83-92 Enforcement powers	<p>Sections 83-92 set out the powers of inspection and enforcement whereby authorised officers may carry out inspection of premises, enter premises under warrant, gather evidence and make investigations, as well as providing for appeals against retention of property and compensation.</p>
Section 94 – Interpretation and the definition of Body Piercing	<p>Section 94 sets out the meaning of key terms used in Part 4 of the Act. Regulations may be made to further define the meaning of ‘body piercing’. There is a requirement to fully utilise the provision at 94(1)(b) to develop regulations to capture the description and prescription of those “objects” that are used in non-intimate body piercings.</p>
Schedule 3 – further provision about special procedure licences	<p>Paragraphs 1-4 set out the process that an applicant for a special procedure licence must follow and the information they must provide to the local authority to obtain a licence. Under paragraph 4, regulations may make further provision about various matters.</p> <p>Paragraph 5 specifies the content of a special procedure licence. Regulations may make further provision about the form and contents of a special procedure licence.</p> <p>Paragraphs 6 and 7 relate to copy licences and paragraph 8 provides details of the circumstances under which a licence expires. Paragraphs 9 and 10 relate to renewals of licence. Paragraphs 11-13 deal with variations of a licence. Paragraph 14 sets out the process if a licence holder wishes to terminate their licence.</p> <p>Paragraphs 15-17 set out the process a local authority must follow in relation to particular matters (for example refusal of an application) and an individual’s right to make representations. Paragraphs 18-20 set out in what circumstances an applicant may appeal and relevant the appeals process to follow. Paragraph 21 delegates particular functions to the local authority’s licensing committee (or sub-committee) and</p>

	regulations may be made about the procedures that will apply for the purpose of exercising their delegated functions.
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