

*Draft Regulations laid before Senedd Cymru under section 123(2) of the Public Health (Wales) Act 2017, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**202X No. (W.)**

**PUBLIC HEALTH, WALES**

**The Special Procedures Exempted  
Individuals (Wales) Regulations  
202X**

**EXPLANATORY NOTE**

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

Part 4 of the Public Health (Wales) Act 2017 (“the Act”) establishes a mandatory licensing scheme for individuals wishing to perform special procedures (as listed in section 57 of the Act) in Wales.

An individual who performs a special procedure on someone else, in the course of a business, must be licensed, unless they are exempt (section 58(2) of the Act).

Section 60(1) and (2) of the Act details the circumstances in which an individual is exempt from the requirement to obtain a special procedure licence. Members of certain professions are treated as exempted individuals for the purposes of section 60 of the Act, unless regulations limit the extent of the special procedures that members of those professions can perform.

Regulations may provide for individuals who are members of other professions, or who are other specified workers, to be exempt from the requirement to obtain a special procedure licence (section 60(3) of the Act).

Regulations 3 and 4 of these Regulations make provisions for members of certain professions covered by section 60(1) and (2) of the Act. They provide for those members to not be treated as exempt from the requirement to be licensed to perform specified special procedures. For members of certain professions, regulation 4 restores the exemption where a special

procedure is performed in a regulated independent healthcare establishment (as defined in regulation 2).

Regulation 5 of these Regulations makes provision for members of certain professions to be treated as exempt from the requirement to obtain a special procedure licence in relation to a specific special procedure. This exemption applies when that procedure is being performed in a regulated independent healthcare establishment.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from Welsh Government, Cathays Park, Cardiff CF10 3NQ and is published on [www.gov.wales](http://www.gov.wales).

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*Made* \*\*\*

*Coming into force* \*\*\*

The Welsh Ministers, in exercise of the powers conferred by section 60(1), (3) and (5) of the Public Health (Wales) Act 2017(1), make the following Regulations.

In accordance with section 123(2) of the Public Health (Wales) Act 2017, a draft of these Regulations has been laid before, and approved by, resolution of Senedd Cymru(2).

**Title and coming into force**

**1.**—(1) The title of these Regulations is the Special Procedures Exempted Individuals (Wales) Regulations 202X.

(2) These Regulations come into force on XXX.

**Interpretation**

**2.**—(1) In these Regulations—

“the 1983 Act” (“*Deddf 1983*”) means the Medical Act 1983(3);

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- (1) 2017 anaw 2. See section 124(1) of that Act for the definition of “regulations”.
- (2) The reference in section 123 of the Public Health (Wales) Act 2017 to the National Assembly for Wales now has effect as a reference to Senedd Cymru by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).
- (3) 1983 c. 54.

“the 1984 Act” (“*Deddf 1984*”) means the Dentists Act 1984(1);

“the 1989 Act” (“*Deddf 1989*”) means the Opticians Act 1989(2);

“the 2000 Act” (“*Deddf 2000*”) means the Care Standards Act 2000(3);

“the Act” (“*y Ddeddf*”) means the Public Health (Wales) Act 2017;

“the 2001 Order” (“*Gorchymyn 2001*”) means the Health Professions Order 2001(4);

“the 2010 Order” (“*Gorchymyn 2010*”) means the Pharmacy Order 2010(5);

“the 2011 Regulations” (“*Rheoliadau 2011*”) means the Independent Health Care (Wales) Regulations 2011(6);

“chiroprapist” (“*ciropodydd*”) means a person registered in Part 2 of the HCPC register and who is regulated by the Health and Care Professions Council;

“chiropractor” (“*ciopractydd*”) means a “registered chiropractor” within the meaning of that term, as set out in section 43 of the Chiropractors Act 1994(7), and who is regulated by the General Chiropractic Council;

“dental care professional” (“*proffesiynolyn gofal deintyddol*”) means a person registered in the dental care professionals register established and maintained under section 36B of the 1984 Act(8) and who is regulated by the General Dental Council;

“dentist” (“*deintydd*”) means a person registered in the dentists register kept in accordance with section 14 of the 1984 Act and who is regulated by the General Dental Council;

“dispensing optician” (“*optegydd cyflenwri*”) means a person registered in the register of dispensing opticians maintained under section 7(b) of the 1989 Act and who is regulated by the General Optical Council;

“HCPC register” (“*cofrestr yr HCPC*”) means the register established and maintained under article 5 of the 2001 Order by the Health and Care

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(1) 1984 c. 24.  
(2) 1989 c. 44.  
(3) 2000 c. 14.  
(4) S.I. 2002/254, amended by S.I. 2009/1182; there are other amending instruments but none is relevant.  
(5) S.I. 2010/231.  
(6) S.I. 2011/734 (W. 112), amended by S.I. 2017/202 (W. 57); there are other amending instruments but none is relevant.  
(7) 1994 c. 17.  
(8) Section 36B was inserted by S.I. 2005/2011, articles 2(1) and 29.

Professions Council<sup>(1)</sup> established under article 3 of that Order, and of which further provision is made in the Health Professions (Parts of and Entries in the Register) Order of Council 2003<sup>(2)</sup>;

“licensed medical practitioner” (“*ymarferydd meddygol trwyddedig*”) means a person registered in the register of medical practitioners as defined by section 2(2) of the 1983 Act, who holds a licence to practise under section 29A(1) of that Act and who is regulated by the General Medical Council;

“midwife” (“*bydwraig*”) means a person registered in the Midwives Part of the Nursing and Midwifery Register and who is regulated by the Nursing and Midwifery Council;

“nurse” (“*nyrs*”) means a person registered in the Nurses Part or the Specialist Community Public Health Nurses Part of the Nursing and Midwifery Register and who is regulated by the Nursing and Midwifery Council;

“Nursing and Midwifery Register” (“*Cofrestr Nyrsio a Bydwreigiaeth*”) means the register maintained by the Nursing and Midwifery Council under article 5 of the Nursing and Midwifery Order 2001<sup>(3)</sup>;

“nursing associate” (“*cydymaith nyrsio*”) means a person registered in the Nursing Associates Part of the Nursing and Midwifery Register and who is regulated by the Nursing and Midwifery Council;

“optometrist” (“*optometrydd*”) means a person registered in the register of optometrists maintained under section 7(a) of the 1989 Act and who is regulated by the General Optical Council;

“osteopath” (“*osteopath*”) means a “registered osteopath” within the meaning of that term, as set out in section 41 of the Osteopaths Act 1993<sup>(4)</sup>, and who is regulated by the General Osteopathic Council;

“pharmacist” (“*fferyllydd*”) means—

- (a) in relation to Great Britain a person registered in Part 1 of the register of pharmacists and pharmacy technicians maintained under article 19(2) of the 2010 Order and who is regulated by the General Pharmaceutical Council, and
- (b) in relation to Northern Ireland a person registered in the register of pharmaceutical chemists for Northern Ireland, maintained in

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(1) The Health and Care Professions Council is so named by section 214(1)(b) of the Health and Social Care Act 2012 (c. 7) and is referred to in these Regulations as “the HCPC”. Before the coming into force of that provision the body was known as the Health Professions Council.

(2) S.I. 2003/1571, amended by S.I. 2006/1996; there are other amending instruments but none is relevant.

(3) S.I. 2002/253, amended by S.I. 2009/1182 and S.I. 2018/838.

(4) 1993 c. 21.

pursuance of Articles 6(a) and 9 of the Pharmacy (Northern Ireland) Order 1976<sup>(1)</sup> and who is regulated by the Pharmaceutical Society of Northern Ireland;

“pharmacy technician” (*“technegydd fferyllfa”*) means a person registered in Part 2 of the register of pharmacists and pharmacy technicians established and maintained under article 19(2) of the 2010 Order and who is regulated by the General Pharmaceutical Council;

“physiotherapist” (*“ffisiotherapydd”*) means a person registered in Part 9 of the HCPC register and who is regulated by the Health and Care Professions Council;

“podiatrist” (*“podiatrydd”*) means a person registered in Part 2 of the HCPC register and who is regulated by the Health and Care Professions Council;

“regulated independent healthcare establishment” (*“sefydliad gofal iechyd annibynnol a reoleiddir”*) means—

- (a) an independent clinic as defined by section 2(4) of the 2000 Act and as prescribed by regulation 4 of the 2011 Regulations;
- (b) an independent hospital as defined by section 2(2) and (3) of the 2000 Act and as prescribed by regulation 3 of the 2011 Regulations;
- (c) a private dental practice as defined by regulation 3(1) of the Private Dentistry (Wales) Regulations 2017<sup>(2)</sup>;

“special procedure” (*“triniaeth arbennig”*) has the meaning given in section 57 of the Act;

“special procedure licence” (*“trwydded triniaeth arbennig”*) has the meaning given in section 59 of the Act; and

“unlicensed medical practitioner” (*“ymarferydd meddygol didrwydded”*) means a person registered in the register of medical practitioners as defined by section 2(2) of the 1983 Act, who does not hold a licence to practise under section 29A(1) of that Act and who is regulated by the General Medical Council.

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(1) S.I. 1976/1213 (N.I. 22); relevant amendments are the Coronavirus Act 2020 (c. 7), s. 87(1), S.R. 2008/192, reg. 5 (which is now revoked), S.I. 2019/585, reg 1(2), Sch. para. 6(a) (as amended by S.I. 2020/1394, reg. 20(7)), S.I. 2022/849, articles 1(3), 10, and S.I. 2022/1023, article 2.

(2) S.I. 2017/202 (W. 57). See regulation 4 for undertakings which are not private dental practices.

**Specified special procedures for the purposes of section 60(1) of the Act for members of certain professions**

3. An individual who is a member of a profession listed in column 1 of Schedule 1 to these Regulations is not exempt from the requirement to be licensed, if the individual wishes to perform each special procedure specified in column 2 of that Schedule.

**Specified special procedures for the purposes of section 60(1) of the Act for members of certain professions unless certain conditions are met**

4. An individual who is a member of a profession listed in column 1 of Schedule 2 to these Regulations is not exempt from the requirement to be licensed, if the individual wishes to perform each special procedure specified in column 2 of that Schedule, unless that individual is—

- (a) performing the special procedure in a regulated independent healthcare establishment, and
- (b) not subject to any conditions, restrictions or sanctions on their professional registration, in relation to their fitness to practise.

**Exemption for members of specified professions for the purposes of section 60(3) of the Act**

5. An individual who is—

- (a) a member of a profession listed in column 1 of Schedule 3 to these Regulations,
- (b) performing a special procedure listed in column 2 of that Schedule in a regulated independent healthcare establishment, and
- (c) not subject to any conditions, restrictions or sanctions on their professional registration, in relation to their fitness to practise,

is to be treated as exempt from the requirement to be licensed to perform that special procedure.

*Name*

*Date*

Schedule 1 Regulation 3

Specified special procedures for certain professions for the purposes of section 60(1) of the Act

<i>Column 1</i>	<i>Column 2</i>
<b>Profession</b>	<b>Special procedure</b>
An unlicensed medical practitioner	Acupuncture Body Piercing
An optometrist or dispensing optician	Electrolysis Tattooing
A pharmacist or pharmacy technician	

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Schedule 2 Regulation 4

Specified special procedures for certain professions for the purposes of section 60(1) of the Act unless certain conditions are met

<i>Column 1</i>	<i>Column 2</i>
<b>Profession</b>	<b>Special procedure</b>
A licensed medical practitioner	Acupuncture Body Piercing
A dentist or dental care professional	Electrolysis Tattooing
A chiropractor	
An osteopath	
A midwife, nurse or nursing associate	

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Schedule 3 Regulation 5

Exemption for members of specified professions for the purposes of section 60(3) of the Act

<i>Column 1</i>	<i>Column 2</i>
<b>Profession</b>	<b>Special procedure</b>
A chiropodist or podiatrist	Acupuncture
A physiotherapist	

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