

SL(6)528 – The Special Procedures Licensing Committees (Wales) Regulations 2024

Background and Purpose

The Special Procedures Licensing Committees (Wales) Regulations 2024 (“the Regulations”) make provision about the procedures applicable to local authority licensing committees (or their sub-committees) for the purpose of the exercise of certain functions relating to special procedure¹ licences under Part 4 of the Public Health (Wales) Act 2017 (“the 2017 Act”).

A local authority has various functions under Part 4 of the 2017 Act relating to the granting, varying, renewing or revoking of special procedure licences. This includes a duty to issue a warning notice where the local authority intends to take certain steps, for example refusing an application for a special procedure licence. A local authority is required to consider representations made after it has issued such a warning notice.

Paragraph 21(1) of Schedule 3 to the 2017 Act delegates specified functions of a local authority, including the consideration of such representations, to the licensing committee of the authority established under section 6 of the Licensing Act 2003. Subject to the Regulations, the relevant committees may regulate their own procedure.

Procedure

Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

Regulation 8 gives a relevant committee the power to postpone or adjourn a hearing. Paragraph (1) provides that a committee “may at any time” postpone or adjourn a hearing. Paragraph (2) provides that the committee may take the actions specified in paragraph (1) if it considers it necessary for the reasons set out in sub-paragraphs (a) and (b).

¹ The special procedures listed in section 57 of the 2017 Act are acupuncture, body piercing, electrolysis and tattooing.



The Welsh Government is asked to clarify whether a committee may only exercise the power in paragraph (1) where paragraph (2) applies, or whether the power to postpone or adjourn may also be exercised for other purposes.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

The 2017 Act received Royal Assent on 3 July 2017. These Regulations are due to come into force on 29 November 2024. This means it will have taken over 7 years for the new rules on special procedures to be implemented.

In 2017, the Explanatory Memorandum that accompanied the Public Health (Wales) Bill specified the “known and well reported health risks connected to” special procedures and the “complications that can arise” with special procedures.²

The Explanatory Memorandum to the Bill also referred to the current legislation being “inadequate to sufficiently protect the public”.³ The Explanatory Memorandum also noted the costs to the NHS under the current regime: “The main benefit of the licensing system is savings to the NHS, in terms of treatment costs, and to individuals’ health”.⁴

Further, the Explanatory Memorandum to these Regulations says that enforcement of the current rules has been inconsistent. It adds that Welsh Government model byelaws intended to address historic inconsistencies in this area have not been adopted by a number of local authorities in Wales, and that local authorities are unlikely to do so because “since the Act was passed in 2017, they have been waiting for the creation of the mandatory licensing scheme for special procedures”.⁵

Given all of the above, it is unclear why it has taken over 7 years to implement the new rules on special procedures set out in the 2017 Act.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

2 October 2024

² See paragraphs 116 and 117 of the [Explanatory Memorandum to the Public Health \(Wales\) Bill](#)

³ See paragraph 616 of the [Explanatory Memorandum to the Public Health \(Wales\) Bill](#).

⁴ See paragraph 614 of the [Explanatory Memorandum to the Public Health \(Wales\) Bill](#)

⁵ See paragraph 4.7 of the [Explanatory Memorandum to these Regulations](#)

