

Government Response: *The Special Procedures Approved Premises and Vehicles (Wales) Regulations 2024*

Technical Scrutiny point 1:

The Welsh Government acknowledges the point made but we are satisfied that there is no duty imposed on a local authority to grant a variation.

There is a contrast in drafting with regulations 9(2) and 21(2) as there are specific criteria that must be met for an approval certificate to be granted (in regulation 8) and for an approval certificate to be renewed (in regulation 20).

Technical Scrutiny point 2:

The Welsh Government can confirm the underlying rationale for regulation 29(g) is to ensure that any relevant information is passed on to the local authority, who must comply with the duty imposed under section 72(4) of the Public Health (Wales) Act 2017 (“the 2017 Act”) to take reasonable steps to bring the voluntary termination notice to the attention of any persons the local authority thinks is likely to be affected by the notice.

The Welsh Government did consider adding a Schedule to the Regulations with a model ‘notice’ but on balance given the length of the provision in regulation 29 (approx. 120 words) this was considered unnecessary. The drafting approach achieves the same legal effect.

Technical Scrutiny point 3:

The Welsh Government acknowledges the helpful point made but we do not consider that it is necessary to include further clarification in the application form in order for applicants to understand that an approval certificate issued by one local authority permits the certificate holder to use a vehicle for the performance of special procedures anywhere in Wales. This is articulated in Guidance Note 10 of the application form.

Technical Scrutiny point 4:

The Welsh Government agrees that the terms should read “special procedure licence” and “licence”. We will ensure that the Regulations are amended prior to making as set out in the table below.

Technical Scrutiny point 5:

The Welsh Government agrees the addition of the words “*yn llwyddiannus*” (i.e. successfully) in the Welsh text are unnecessary. We will ensure that the Regulations are amended prior to making as set out in the table below.

Technical Scrutiny point 6:

The Welsh Government acknowledges the point made and will ensure the necessary documents are readily available and widely circulated when they are published. We will take the opportunity the next time the Regulations are amended to address this issue as necessary and consider including the relevant links.

Technical Scrutiny point 7:

The Welsh Government notes the point raised by the Committee regarding accessibility. We consider that the terms are easily understood in the context of the mandatory approval conditions. Therefore we consider that the conditions would be understood and that by including the terms in a Schedule the legal effect is clear and correct. A drafting decision was taken to aid clarity by placing the definitions at the end of the Schedules and to include the operative provisions first.

Merit Scrutiny point 1:

Work on implementing the 2017 Act started immediately after the passing of the Act in July 2017. Part 5 (intimate piercing) of the 2017 Act came into force in February 2018, making it an offence to intimately pierce, or arrange to intimately pierce, a child or young person under the age of 18 in Wales, if that piercing involves or uses jewellery. The 2017 Act allowed for the scope of the offence to be extended, by way of regulations made by the Welsh Ministers, to capture intimate piercings which involve or use 'objects'. With this as a priority, the Government undertook a consultation on its proposals to extend the scope of the protections, prepared guidance for practitioners and regulators as well as for young people, and undertook a publicity campaign to inform practitioners, clients and regulators of the new prohibitions. Regulations were subsequently made in July 2019.

In the autumn of 2019, the preparatory work for the formulation of proposals for the mandatory licensing scheme set out in Part 4 of and Schedule 3 to the 2017 Act commenced. Due to the Covid pandemic response however, work on the proposals was paused, resuming in the summer of 2022. Since then, public consultation on the principles for the proposed licensing scheme has been undertaken yielding a significant number of informative responses from a range of individuals, businesses and representative bodies across all the special procedures. These informed the drafting of five complex inter-related regulations that were then consulted upon earlier this year.

Our approach has been to ensure there has been strong and effective engagement with stakeholders, including local authority officers, practitioners, businesses and industry stakeholders, about the scheme requirements. This has taken time but has ensured that the regulatory framework is understood and capable of effective implementation, providing the protections and safeguards intended by the 2017 Act.

Grateful to the Committee’s advisor for bringing the error in regulation 28(3)(b) of the English text to our attention, this will be corrected on making.

Technical drafting corrections to be made prior to the making of the Regulations

CORRECTIONS MADE TO THE WELSH TEXT PRIOR TO MAKING	CORRECTIONS MADE TO THE ENGLISH TEXT PRIOR TO MAKING
<p>Rheoliadau Mangreoedd a Cherbydau a Gymeradwywyd o ran Triniaethau Arbennig (Cymru) 2024</p>	<p>The Special Procedures Approved Premises and Vehicles (Wales) Regulations 2024</p>
<p>In Guidance Note 12 relating to Part 5, Section 5.2 of the form in Schedule 1 to the Regulations, the text will be replaced as set out below:</p> <p><u>Current text:</u> Nodyn 12: Rhif y drwydded Ystyr rhif y drwydded yw’r cyfeirnod a roddir gan yr awdurdod lleol i’r dystysgrif gymeradwyo sy’n unigryw i’r dystysgrif honno ac a bennir ynddi.</p> <p><u>Will be replaced with:</u> Nodyn 12: Rhif y drwydded Ystyr “rhif y drwydded” yw’r cyfeirnod a roddir gan yr awdurdod lleol i’r drwydded triniaeth arbennig sy’n unigryw i’r drwydded ac a bennir ynddi.</p>	<p>In Guidance Note 12 relating to Part 5, Section 5.2 of the form in Schedule 1 to the Regulations, the text will be replaced as set out below.</p> <p><u>Current text:</u> Note 12: Licence number The “licence number” means the reference number given by the local authority to the approval certificate which is unique to that certificate and which is specified in it.</p> <p><u>Will be replaced with:</u> Note 12: Licence number The “licence number” means the reference number given by the local authority to the special procedure licence which is unique to that licence and which is specified in it.</p>
<p>In the Welsh text only, in regulation 8(2)(b), the words “yn llwyddiannus” will be removed.</p>	
	<p>In the English text only, in regulation 28(3), sub-paragraph (b) will be replaced as set out below.</p> <p><u>Current sub-paragraph (b):</u> “(b) at subsequent at intervals of no more than 1 year.”</p> <p><u>Will be replaced with:</u></p>

	“(b) at subsequent intervals of no more than 1 year.”
Minor issues such as formatting, minor changes to the explanatory note and footnotes and correcting typographical errors will also be corrected prior to making.	