

SL(6)526 – The Special Procedures Exempted Individuals (Wales) Regulations 2024

Background and Purpose

Part 4 of the Public Health (Wales) Act 2017 (the 2017 Act) establishes a mandatory licensing scheme for individuals wishing to perform special procedures in Wales. The special procedures are:

- acupuncture,
- body piercing,
- electrolysis,
- tattooing.

An individual who performs a special procedure on someone else, in the course of a business,¹ must be licensed, unless they are exempt.

Under section 60 of the 2017 Act, members of certain professions are treated as exempt. For example, doctors, dentists, opticians and pharmacists are exempt from the requirement to be licensed. However, regulations may set out further detail as to the extent of exemptions.

These Regulations set out further detail as to the extent of the exemptions. For example, these Regulations provide that:

- a pharmacist is not exempt and requires a licence to perform any special procedure;
- a registered nurse is not exempt and requires a licence to perform any special procedure, unless the nurse is performing the special procedure in a regulated independent healthcare establishment (such as an independent hospital) and is not subject to any conditions, restrictions or sanctions on their professional registration, in relation to their fitness to practise;
- a chiropractor is not exempt as regards performing the special procedure of acupuncture and therefore requires a licence to perform acupuncture.
- a physiotherapist is exempt as regards performing acupuncture, provided the physiotherapist is performing the acupuncture in a regulated independent healthcare establishment (such as an independent hospital) and is not subject to any conditions, restrictions or sanctions on their professional registration, in relation to their fitness to practise.

¹ Special procedures performed as part of NHS treatment in an NHS setting do not fall within the scope of the new licensing scheme.



Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

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

The definition of “pharmacist” is split into a definition for pharmacists regulated by the General Pharmaceutical Council and a definition for pharmacists regulated by the Pharmaceutical Society of Northern Ireland.

However, the definition of “student pharmacist” refers only to student pharmacists regulated by the Pharmaceutical Society of Northern Ireland.

We would be grateful if the Welsh Government could confirm that the definition of “student pharmacist” is correct, not least because the definition refers to the definition applying “in relation to Northern Ireland”, which begs the question as to whether there should also be a definition that applies “in relation to Great Britain”.

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 Public Health (Wales) Act 2017 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

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](#).



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 to both points is required.

Legal Advisers

Legislation, Justice and Constitution Committee

23 September 2024

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](#)



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee