

BYELAWS

For the Regulation of

Acupuncture, Tattooing, semi-permanent skin-colouring,
cosmetic piercing and electrolysis

Byelaws for the purposes of securing the cleanliness of premises registered under Sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under Sections 14(1) or 15(1) or both of the Act and persons assisting them and/or securing the cleansing and, so far as appropriate, sterilisation of instruments, materials and equipment used in connection with the practise of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis or any two or more of such practise and businesses made by South Kesteven District in pursuance of Sections 14(7) or 15(7) or both of the Act.

Interpretation

1. (1) In these byelaws, unless the context otherwise requires-

"The Act" means the Local Government (Miscellaneous Provisions) Act 1982;

"Client" means any person undergoing treatment;

"hygienic piercing instrument" means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either-

- (a) The lobe or upper flat cartilage of the ear, or
- (b) Either side of the nose in the mid crease area above the nostril;

"operator" means any person giving treatment, including a proprietor;

"premises" means any premises registered under Part VIII of the Act;

"proprietor" means any person registered under Part VIII of the Act;

"treatment" means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

"the treatment area" means any part of the premises where treatment is given to clients

- (2) the Interpretation Act 1978 shall apply fully interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2. (1) – for the purpose of securing the cleanliness of premises and for fittings in such premises a proprietor shall ensure that –
- (a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;
 - (b) any waste materials, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the Local Authority;
 - (c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilised for each treatment, is suitably stored after treatment and disposed of in accordance with relevant legislation and guidance as advised by the Local Authority;
 - (d) any furniture for fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;
 - (e) any table, couch or seat used by a client in a treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment as a smooth impervious surface which is disinfected –
 - (i) immediately after use;
 - (ii) at the end of each working day.
 - (f) any table, couch, or other item of furniture used in treatment is covered by a disposal paper sheet which is changed for each client;
 - (g) no eating, drinking or smoking is permitted in the treatment area and a Notice or Notices reading “No Smoking” and “No Eating or Drinking” must be promptly displayed in the treatment area.
- (2) –
- (a) subject to sub paragraph (b), where premises are registered under Section 14(2) (Acupuncture) or 15(2) (Tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;
 - (b) sub paragraph (a) shall not apply if the only treatment to be given in such premises is ear piercing or nose piercing using a hygienic piercing instrument.
- (3) –
- (a) subject to sub paragraph (b), where premises are registered under Section 15(2) (Tattooing, semi-permanent skin-colouring and

cosmetic piercing) of the 1982 Act, a proprietor shall ensure that the floor of the treatment area is provided with a smooth impervious surface;

- (b) sub paragraph (a) shall not apply if the only treatment to be given in such premises is ear piercing or nose piercing using a hygienic piercing instrument.

3. (1) - for the purpose of securing the cleansing and so far as is appropriate, the sterilisation of needles, instruments, jewellery, materials and equipment used in connection with treatment –

(a) an operator shall ensure that –

- (i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment-

- (a) is clean and in good repair and so far as is appropriate, is sterile

- (b) not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilised.

- (ii) any needle, metal instrument or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument and touches a part is sterile;

- (iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;

- (iv) any dye used for Tattooing or semi-permanent skin colouring is sterile and inert;

any container used to hold dye for Tattooing or semi-permanent skin colouring is either disposed of at the end of each treatment or is cleansed and sterilised before reuse.

(b) a proprietor shall provide –

- (i) adequate facilities and equipment for –

- (a) cleansing; and

- (b) sterilisation, unless only pre-sterilised items are used.

- (ii) Sufficient and safe gas points and electrical socket outlets;

- (iii) an adequate and constant supply of clean hot and cold water on the premises;

- (iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1) (a) (i), (ii), (iii), (iv), (v) to be avoided as far as possible.

- 4.** (1) – for the purpose of securing the cleanliness of operators, a proprietor –
- (a) shall ensure that an operator –
 - (i) keeps his hands and nails clean and his nails short;
 - (ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;
 - (iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise only in the circumstances described in paragraph 4(3);
 - (iv) wears a gown, wrap or protective clothing that is clean and washable or alternatively a disposal covering that has not previously been used in connection with another client;
 - (v) does not smoke or consume food or drink in the treatment area; and
 - (b) shall provide –
 - (i) suitable and sufficient washing facilities appropriately located for the sole purposes of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and
 - (ii) suitable and sufficient sanitary accommodation for operators.
- (2) – where an operator carries out treatment using only a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities that the proprietor provides needs to be for the sole use of the operator.
- (3) – where an operator gives acupuncture a proprietor shall ensure that the operator wears disposal examination gloves that have not previously been used with another client if –
- (a) if the client is bleeding or has an open lesion on an exposed part of his body; or
 - (b) the client is known to be infected with a blood-borne virus;
 - (c) the operator has an open lesion on his hand; or
 - (d) the operator is handling items that may be contaminated with blood or other body fluids
- 5.** A person registered in accordance with Sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).

6. The byelaws relating to acupuncture, ear piercing, electrolysis and tattooing were confirmed by the Secretary of State for Social Services on 19 June 1984 and brought into operation by South Kesteven District Council on 26 July 1984 are revoked.

THE COMMON SEAL of SOUTH KESTEVEN

DISTRICT COUNCIL was hereunto

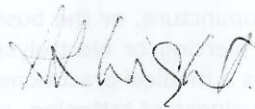
Affixed in the presence of:-



[Authorising Officer]

On 11 MAY 2012

The foregoing byelaws are hereby confirmed by the Secretary of State for Health on 14 AUGUST 2012 and shall come into operation on 1 OCTOBER 2012

A handwritten signature in dark ink, which appears to read "A Wight".

[Printed name] AILSA WIGHT.

Member of the Senior Civil Service

Department of Health

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part 8 of the Act. A person who contravenes Section 16(9) shall be guilty of an offence and liable for Summary Conviction to a fine not exceeding level 2 on the Standard Scale (see Section 16(10)).

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes these byelaws shall be guilty of an offence and liable on Summary Conviction to a fine not exceeding level 3 on the Standard Scale. If a person registered under Part 8 of the Act is found guilty of contravening these byelaws the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of the person's registration. A Court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence when a person charged under the relevant sub sections of Section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Nothing in these byelaws extends to the practise of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner, or to premises in which the practise of acupuncture, or business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried by or under the supervision of such a person.

Nothing in these byelaws extends to the practise of acupuncture by or under the supervision of a person who is registered as a Dentist, or to premises in which the practise of acupuncture is carried out by or under the supervision of such a person.

The legislative provisions relevant to acupuncture are those in Section 14. The provisions relevant to treatment other than acupuncture are in Section 15.

The key differences in the application of requirements in respect of the various treatments are as follows:

- The reference in the introductory text to provisions of Section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 **only apply to acupuncture**
- The reference in the introductory test to provisions of Section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 **do not apply to acupuncture**

- The references in paragraph (1)(1) of the definition of “premises” to provisions of Section 14 (acupuncture) **only apply to acupuncture**
- The references in paragraph (1)(1) in the definition of “premises” to provisions of Section 15 (tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis) **do not apply to acupuncture**
- The requirement in paragraph (2)(2) that treatment is given in a treatment area used solely for giving treatment **applies acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis but not to ear piercing or nose piercing using a hygienic piercing instrument**
- The requirement in paragraph (2)(3) that the floor of the treatment area be provided with a smooth impervious surface **applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to acupuncture or electrolysis or ear piercing or nose piercing using a hygienic piercing instrument**
- The requirement relating to dye or a container used to hold dye used for treatment in paragraphs 3(1)(a)(iv)(v) **apply to tattooing and semi-permanent skin-colouring**
- The requirement in paragraph 4(1)(a)(iii) that an operator wears disposal examination gloves that have not recently been used with another client **does not apply to acupuncture otherwise than in the circumstances described in paragraph 4(3)**
- The provisions of paragraph 4(2) in relation to washing facilities **apply to cosmetic piercing using only a hygienic piercing instrument**
- The exception whereby the byelaws do not apply to treatment carried out by or under the supervision of a **Dentist** applies to **acupuncture (see Section 14(8) of the Act)**

APPENDIX B

The Procedure for adoption of Byelaws is set out in section 236 of the Local Government Act 1972. It would be for SKDC to formally resolve to adopt the byelaws set out in Appendix A. The resolution to adopt the byelaws would be conditional upon the Council agreeing to adopt and bring into force Part VIII of the 1982 Act (as amended). The adopted byelaws would then be made under the Common Seal of SKDC, following which a notice of SKDC's intentions to apply for their confirmation by the Secretary of State for Health must be given in one or more newspapers circulating in the area to which the byelaws are to apply.

For a period of at least one month after the date of publication of the notices a copy of the byelaw must be held on deposit at the offices of SKDC for inspection by the public at all reasonable hours, and SKDC must, where a request is made, provide a copy of any part of the byelaws.

After the month for deposit has expired the application to the Secretary of State for Health would be undertaken by sending two sealed copies of the byelaw, together with copies of the newspapers advertising the byelaw.

On receipt of the sealed byelaws, provided that no objections have been received, they will normally be stamped as confirmed by the Secretary of State and returned to SKDC as soon as possible. Where an objection has been received following the advertisement of the byelaws, SKDC will be provided with copies of the objections for its officers to comment upon, which in turn will be considered by the Secretary of State. Should the Secretary of State still be unclear as to the proper resolution of these objections then a Public Inquiry may be ordered to be held to consider the objections to adopt the byelaws, and the decision on whether to confirm or refuse the Byelaws will be made by the Chair to the Inquiry. It must be noted that where the Council is merely seeking to adopt the Secretary of State for Health's model byelaws an inquiry is highly unlikely.