

**Name of meeting:** Licensing and Safety Committee

**Date:** 24<sup>th</sup> March 2016

**Title of report:** Regulation of Cosmetic Piercing and Skin Colouring Businesses

<b>Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>No</b>
<b>Is it in the Council's Forward Plan?</b>	<b>N/A</b>
<b>Is it eligible for "call in" by Scrutiny?</b>	<b>N/A</b>
<b>Date signed off by Director &amp; name</b>	<b>Jacqui Gedman – 14/03/16</b>
<b>Is it signed off by the Director of Resources?</b>	<b>David Smith – 10/03/16</b>
<b>Is it signed off by the Assistant Director – Legal, Governance &amp; Monitoring?</b>	<b>Julie Muscroft – 15/03/16 (John Chapman on behalf of)</b>
<b>Cabinet member portfolio</b>	<b>Cllr Steve Hall, Portfolio Holder for Planning, Highways and Open Spaces</b>

**Electoral wards affected:** All wards  
**Ward councillors consulted:** Consultation with ward councillors is not applicable to this report.

**Public or private:** Public

## 1. PURPOSE OF REPORT

1.1 To seek Members' approval to adopt the "Model Byelaws" produced by the Department of Health in relation to the regulation of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis.

## 2. KEY POINTS

2.1 Byelaws are in place to regulate acupuncture, tattooing, ear piercing and electrolysis. These were made under the provisions of sections 14, 15, 16 and 17 of Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 and came into force 25 July 1984.

- 2.2 In recent years there has been a growth in businesses offering body piercings and semi-permanent skin colourings, which are currently registrable under the legislation detailed in 2.1.
- 2.3 On 1 April 2004, section 120 and Schedule 6 of the Local Government Act 2003 came into force amending section 15 of the Local Government (Miscellaneous Provisions) Act 1982 to allow the regulation of cosmetic piercing and semi-permanent skin colouring businesses.
- 2.4 These new provisions give local authorities in England (outside London) and in Wales, specific powers relating to persons carrying on businesses of cosmetic piercing (piercing of the body including the ear) and semi-permanent skin colouring (including micropigmentation, semi-permanent make-up and temporary tattooing).
- 2.5 Section 120 introduces new terminology for simplicity and clarity as follows:
- Ear piercing and cosmetic body piercing are encompassed in single term “cosmetic piercing”
  - Micropigmentation, semi-permanent make-up and temporary tattooing are covered by the umbrella term “semi-permanent skin-colouring”. Semi-permanent skin colouring is defined as “the insertion of semi-permanent colouring into a persons’ skin” – this approach allows for other similar activities to be covered in future.
- 2.6 Local authorities who have already resolved to adopt the 1982 Act in relation to tattooing, ear-piercing and electrolysis are able to introduce byelaws to require businesses that carry out such procedures to:
- Register themselves and their premises; and
  - Observe byelaws relating to the cleanliness and hygiene of premises, practitioners and equipment
- 2.7 The Department of Health have published ‘Model Byelaws’ which will cover all procedures covered both in the Local Government (Miscellaneous Provisions) Act 1982 – Sections 14, 15, 16 and 17 of Part VIII and the Local Government Act 2003 – Section 120.
- 2.8 Environmental Health Services will receive applications for registrations. This prompts the registration process which includes the inspection of potential premises by environmental health specialists. If the applicant meets the requirements of the byelaws they will be issued with a registration, allowing them to practice the listed treatment at the premises. The environmental health specialists will advise applicants on their responsibilities under the Act, the byelaws and the relevant codes of practice which are issued with the registration.

### **3. IMPLICATIONS FOR THE COUNCIL**

3.1 The cost of providing this service is met from fees charged.

### **4. CONSULTEES AND THEIR OPINIONS**

4.1 The byelaws which are being put before members for approval are 'Model Byelaws' written by the Department of Health and have not been modified or altered in anyway, therefore consultation is not deemed necessary. The Council's Legal Services have been consulted about the procedure for adopting the new byelaws.

### **5. NEXT STEPS**

5.1 The adoption of byelaws is carried out using a specific procedure which is prescribed by Section 236 of the Local Government Act 1972.

5.2 Once the adoption of the byelaws has been agreed by Committee, the Council are asked to pass a resolution:

- Authorising the affixing of the common seal to the byelaws and
- Authorising the clerk to carry out the necessary procedure and apply to the Secretary of State for confirmation.
- Repealing any existing byelaws relating to acupuncture, ear piercing, electrolysis and tattooing.

5.3 At least one calendar month before applying to the Secretary of State for confirmation –

- Notice of the Council's intention to apply for confirmation must be given in one or more local newspapers circulating in the area to which the byelaws will apply and a copy of the byelaws will be placed on deposit at the Licensing Office and be open to public inspection without charge during normal opening hours.

5.4 Once the month has elapsed the byelaws will be sent to the Secretary of State for confirmation and should come into operation at least one month afterwards.

### **6. OFFICER RECOMMENDATIONS AND REASONS**

6.1 That the Licensing and Safety Committee consider and recommend to Council for formal adoption the Model Byelaws appended to this report.

### **7. CABINET PORTFOLIO HOLDER RECOMMENDATION**

7.1. The Portfolio Holder, Councillor Steve Hall, supports the Officer's recommendation to formally adopt the Model Byelaws

## **8. CONTACT OFFICER AND RELEVANT PAPERS**

Chi-Nghi Manford, Environmental Health Officer

Tel: 01484 221000

Email: [chi-nghi.manford@kirklees.gov.uk](mailto:chi-nghi.manford@kirklees.gov.uk)

Papers: Department of Health Guidance on section 120 and Schedule 6  
Local Government Act containing Model Byelaws.

Copy of the Model Byelaws to be approved.

Copy of Byelaws to be revoked

## **9. ASSISTANT DIRECTOR RESPONSIBLE**

Joanne Bartholomew, Assistant Director – Place

Tel: 01484 221000

Email: [joanne.bartholomew@kirklees.gov.uk](mailto:joanne.bartholomew@kirklees.gov.uk)

## **BYELAWS**

### **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) and 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by Kirklees Council 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; and
- (c) piercing to other parts of the body.

“operator” means any person giving treatment, including a proprietor;

“premises” means any premises registered under sections 14(2) or 15(2) of the Act;

“proprietor” means any person registered under sections 14(1) or 15(1) 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 premises where treatment is given to clients.

(2) The Interpretation Act 1978 shall apply for the 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 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 material, 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 sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;
  - (d) any furniture or 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 the 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 has a smooth impervious surface which is disinfected-
    - (i) immediately after use; and
    - (ii) at the end of each working day.
  - (f) any table, couch, or other item of furniture used in treatment is covered by a disposable 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" is prominently displayed there.
- (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;
- (d) 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 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 sterilization 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-
      - (aa) is clean and in good repair and, so far as is appropriate, is sterile;

(bb) has 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, sterilized.

- (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 that touches a client 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;
- (v) 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 cleaned and sterilized before reuse.

(b) a proprietor shall provide-

- (i) adequate facilities and equipment for-
  - (aa) cleansing; and
  - (bb) sterilization, unless only pre-sterilized 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) and (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 than in the circumstances described in paragraph 4(3);
  - (iv) wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable 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 use 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 need not be for the sole use of the operator.
- (3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if-
- (a) 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; or
  - (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 that was made by Kirklees Council on the 1 September 1983 and were confirmed by the Secretary of State for Health on 1 March 1984 are revoked.

7. The byelaws relating to Ear Piercing, Electrolysis and Tattooing that were made by Kirklees Council on the 3 February 1984 and were confirmed by the Secretary of State for Health on 25 July 1984 are revoked.

THE CORPORATE COMMON SEAL of  
KIRKLEES COUNCIL

Was affixed (but not delivered  
Until the date hereof) in the presence of:-

The foregoing byelaws are hereby confirmed by the Secretary of State for Health on \_\_\_\_\_ and shall come into operation on \_\_\_\_\_

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 VIII of the Act. A person who contravenes section 16(9) shall be guilty of an offence and liable on 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 VIII 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 for the 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 for the offence.

Nothing in these byelaws extends to the practice 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 practice of acupuncture or business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is a registered dentist, or to premises in which the practice 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 references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 only apply to acupuncture.*

*The references in the introductory text 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) in 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 of paragraph 2(2) that treatment is given in a treatment area used solely for giving treatment* **applies to 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 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 requirements relating to dye or a container used to hold dye used for treatment in paragraphs 3(1) (a) (iv) and (v)* **apply to tattooing and semi-permanent skin-colouring.**

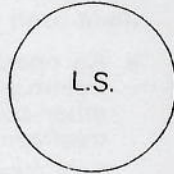
*The requirement in paragraph 4(1)(a)(iii) that an operator wears disposable examination gloves that have not previously been used with another client* **does not apply to acupuncture otherwise than in the circumstances described in paragraph 4(3).**

*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 only to acupuncture (see section 14(8) of the Act).**

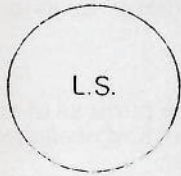
- b. A proprietor shall provide:
- i. suitable and sufficient washing facilities for the sole use of operators, such facilities to have hot and cold water, sanitising soap or detergent, and a nail brush;
  - ii. suitable and sufficient sanitary accommodation for operators

IN TESTIMONY whereof the Corporate Common Seal of the Council of the Borough of Kirklees was hereunto affixed this First day of September One thousand nine hundred and eighty three in the presence of:



A. Ramsden  
Mayor

Michael R.G. Vause  
Chief Legal and Administrative Officer



The Secretary of State this day confirmed the foregoing Byelaws and fixed the date on which they are to come into operation as the 1st day of March 1984.

I. Jewesbury  
Assistant Secretary,  
Department of Health and Social Security.

18th January 1984,  
Hannibal House,  
Elephant and Castle,  
London.

**NOTE - THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS**

A. Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act lays down 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 VIII of the Act.

B. Section 16(1) and (2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who offends against any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1000. If the convicted person is registered under Part VIII of the Act, the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of his registration, and of the registration of the premises in which the offence was committed if such premises are occupied by the person so convicted. Section 16(11) of the Act provides that it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

C. Nothing in these byelaws shall extend to the practice of acupuncture by or under the supervision of a person who is registered as a medical practitioner or a dentist or to premises on which the practice of acupuncture is carried on by or under the supervision of such a person.

**THE COUNCIL OF THE BOROUGH OF KIRKLEES**

**BYELAWS**

**made under Section 14 of the Local Government  
(Miscellaneous Provisions) Act 1982 with  
respect to Acupuncture**

**M.R.G. VAUSE,  
Chief Legal and Administrative Officer,  
Kirklees House,  
Market Street,  
Huddersfield,  
HD1 2TG**



## ACUPUNCTURE

1. Interpretation:
  - a. In these byelaws, unless the context otherwise requires –
    - “The Act” means the Local Government (Miscellaneous Provisions) Act 1982;
    - “Client” means any person undergoing treatment;
    - “Operator” means any person giving treatment;
    - “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 the practice of acupuncture;
    - “The treatment area” means any part of premises where treatment is given to clients.
  - b. The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.
2. For the purpose of securing the cleanliness of premises and fittings therein a proprietor shall ensure that –
  - a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;
  - b. The treatment area is used solely for giving treatment;
  - c. All waste material, and other litter, arising from the treatment, is placed in suitable covered receptacles, which are washable and leakproof, or use a leakproof liner bag. The receptacles shall be emptied, or the bags changed, at least once every working day, or more frequently as necessary, and the material disposed of safely. Where liners are not used, the receptacles shall then be cleaned;
  - d. All needles used in treatment are placed after use in separate covered and leakproof re-usable boxes, or disposable needle boxes designed for the purpose. Where re-usable boxes are used they shall be emptied at least once every working day or more frequently as necessary, and the contents disposed of safely or sterilised for re-use as appropriate. The box shall then be sterilised. Where needle boxes are used they shall be disposed of safely at suitable intervals;
  - e. All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;
  - f. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to treatment, have a smooth impervious surface which is wiped down at least daily with a suitable disinfectant;
  - g. Where tables or couches are used, they shall be covered by a disposable paper sheet which shall be changed for each client;
  - h. A notice or notices reading “No Smoking” are prominently displayed within the treatment area.
3. For the purpose of securing the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with the treatment –
  - a. An operator shall ensure that, before use in connection with treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such articles used in the treatment –
    - i. is clean and in good repair, and, so far as is appropriate, is sterile;
    - ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilised;
  - b. An operator shall ensure that any needle, metal instrument, or other item of equipment, used in treatment or for handling instruments and needles used in treatment, is in a sterile condition and kept sterile until it is used;
  - c. A proprietor shall provide –
    - i. adequate facilities and equipment for the purpose of sterilisation (unless pre-sterilised items are used) and of cleansing, as required in pursuance of these byelaws;
    - ii. sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
    - iii. an adequate constant supply of clean hot and cold water readily available at all times on the premises;
    - iv. adequate storage for all items mentioned in byelaw 3a and b above, so that those items shall be properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.
4. For the purpose of securing the cleanliness of operators –
  - a. An operator whilst giving treatment shall ensure that –
    - i. his hand and nails are clean and nails kept short;
    - ii. he is wearing clean and washable clothing, or alternatively a disposal covering that has not previously been used in connection with any other client;
    - iii. he keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
    - iv. he does not smoke or consume food or drink;



IN TESTIMONY whereof the Corporate Common Seal of the Council of the Borough of Kirklees was hereunto affixed this Third day of February One thousand nine hundred and eighty four in the presence of:

L.S.

A. Ramsden  
Mayor

Michael R.G. Vause  
Chief Legal and Administrative Officer

L.S.

The Secretary of State this day confirmed the foregoing Byelaws and fixed the date on which they are to come into operation as the day of 25 July 1984

A.B. Barton,  
Hannibal House,  
Elephant and Castle,  
London.  
18th June, 1984.

**NOTE - THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS**

A. A proprietor shall take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act lays down 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 VIII of the Act.

B. Section 16(1) and (2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who offends against any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400. If the convicted person is registered under Part VIII of the Act, the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of his registration, and of the registration of the premises in which the offence was committed if such premises are occupied by the person so convicted. Section 16(11) of the Act provides that it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

C. Nothing in these byelaws shall extend to the carrying on of the business of ear piercing or of electrolysis as the case may be by or under the supervision of a person who is registered as a medical practitioner or to premises on which any such business is carried on by or under the supervision of such a person.

THE COUNCIL OF THE BOROUGH OF KIRKLEES

BYELAWS

made under Section 15 of the Local Government  
(Miscellaneous Provisions) Act 1982 with  
respect to Ear Piercing and Electrolysis

M.R.G. VAUSE  
Chief Legal and Administrative Officer,  
Kirklees House,  
Market Street,  
Huddersfield,  
HD1 2TG



## EAR PIERCING AND ELECTROLYSIS

### 1. Interpretation:

#### a. In these byelaws, unless the context otherwise requires -

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

"Client" means any person undergoing treatment;

"Operator" means any person giving treatment;

"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 ear-piercing or electrolysis;

"The Treatment area" means any part of premises where treatment is given to clients.

#### b. The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

### 2. For the purpose of securing the cleanliness of premises and fittings therein a proprietor shall ensure that -

#### a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceilings in any part of the premises used by clients and operators are kept clean and in such good repair as to enable them to be cleaned effectively;

#### b. All waste material, and other litter, arising from the treatment, is placed in suitable covered receptacles, which are washable and leakproof, or use a leakproof liner bag. The receptacles shall be emptied, or the bags changed, at least once every working day, or more frequently as necessary, and the material disposed of safely. Where liners are not used, the receptacles shall then be cleaned;

#### c. All needles used in treatment are placed after use in separate covered and leakproof re-usable boxes, or disposable needle boxes designed for the purpose. When re-usable boxes are used they shall be emptied at least once every working day or more frequently as necessary, and the contents disposed of safely or sterilised for re-use, as appropriate. The box shall then be sterilised. Where needle boxes are used they shall be disposed of safely at suitable intervals;

#### d. All furniture and fittings in the treatment area are kept clean and in such good repair as to enable them to be cleaned effectively;

#### e. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to treatment, have a smooth impervious surface which is wiped down regularly with a suitable disinfectant;

#### f. Where tables or couches are used, they shall be covered by a disposable paper sheet which shall be changed for each client;

#### g. A notice or notices reading "No Smoking" are prominently displayed within the treatment area.

### 3. For the purpose of securing the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with the treatment -

#### a. An operator shall ensure that, before use in connection with treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such articles used in the treatment -

##### i. is clean and in good repair, and, so far as is appropriate, is sterile;

##### ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilised;

#### b. An operator shall ensure that any needle, metal instrument, or other item of equipment used in treatment or for handling instruments and needles used in treatment, is in a sterile condition and kept sterile until it is used;

#### c. A proprietor shall provide -

##### i. adequate facilities and equipment for the purpose of sterilisation (unless pre-sterilised items are used) and of cleansing, as required in pursuance of these byelaws;

##### ii. sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;

##### iii. an adequate constant supply of clean hot and cold water readily available at all times on the premises;

##### iv. adequate storage for all items mentioned in byelaw 3 a and b above, so that those items shall be properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.

### 4. For the purpose of securing the cleanliness of operators -

#### a. An operator whilst giving treatment shall ensure that -

##### i. his hands are clean;

##### ii. he is wearing clean clothing;

##### iii. he keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;

##### iv. he does not smoke or consume food or drink;

#### b. A proprietor shall provide -

##### i. suitable and sufficient washing facilities for the use of operators, such facilities to have hot and cold water, sanitising soap or detergent, and a nail brush;

##### ii. suitable and sufficient sanitary accommodation for operators.

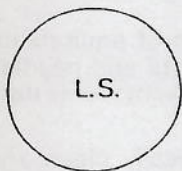
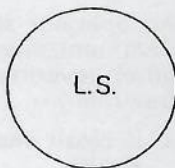


- operator whilst giving treatment shall ensure that -
- i. his hands and nails are clean, and nails kept short;
  - ii. he is wearing clean and washable clothing, or alternatively a disposable covering that has not previously been used in connection with any other client;
  - iii. he keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
  - iv. he does not smoke or consume food or drink;
- b. A proprietor shall provide -
- i. suitable and sufficient washing facilities for the sole use of operators such facilities to have hot and cold water, sanitising soap or detergent, and a nail brush;
  - ii. suitable and sufficient sanitary accommodation for operators.

IN TESTIMONY whereof the Corporate Common Seal of the Council of the Borough of Kirklees was hereunto affixed this Third day of February One thousand nine hundred and eighty four in the presence of:

B. Murphy  
Deputy Mayor

Michael R.G. Vause  
Chief Legal and Administrative Officer



The Secretary of State this day confirmed the foregoing Byelaws and fixed the date on which they are to come into operation as the 25th day of July 1984

A.B. Barton,  
Hannibal House,  
Elephant and Castle,  
London,  
18th June, 1984.

**NOTE - THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS**

A. A proprietor shall take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act lays down 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 VIII of the Act

B. Section 16(1) and (2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who offends against any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding £ 1000. If the convicted person is registered under Part VIII of the Act, the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of his registration, and of the registration of the premises in which the offence was committed if such premises are occupied by the person so convicted. Section 16(11) of the Act provides that it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence

C. Nothing in these byelaws shall extend to the carrying on of the business of tattooing by or under the supervision of a person who is registered as a medical practitioner or to premises on which any such business is carried on by or under the supervision of such a person

**BYELAWS**

made under Section 15 of the Local Government  
(Miscellaneous Provisions) Act 1982 with  
respect to Tattooing

M.R.G. VAUSE,  
Chief Legal and Administrative Officer,  
Kirklees House,  
Market Street,  
Huddersfield.  
HD1 2TG



## TATTOOING

### 1. Interpretation:

- a. In these byelaws, unless the context otherwise requires –

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

“Client” means any person undergoing treatment;

“Operator” means any person giving treatment;

“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 tattooing;

“The Treatment area” means any part of premises where treatment is given to clients.

- b. The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

### 2. For the purpose of securing the cleanliness of premises and fittings therein a proprietor shall ensure that –

- a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;
- b. The treatment area is used solely for giving treatment;
- c. The floor of the treatment area is provided with a smooth impervious surface;
- d. All waste material, and other litter, arising from the treatment, is placed in suitable covered receptacles, which are washable and leakproof, or use a leakproof liner bag. The receptacles shall be emptied, or the bags changed, at least once every working day, or more frequently as necessary, and the material disposed of safely. Where liners are not used, the receptacles shall then be cleaned;
- e. All needles used in treatment are placed after use in separate covered and leakproof re-usable boxes, or disposable needle boxes designed for the purpose. Where re-usable boxes are used they shall be emptied at least once every working day or more frequently as necessary, and the contents disposed of safely or sterilised for re-use, as appropriate. The box shall then be sterilised. Where needle boxes are used they shall be disposed of safely at suitable intervals;
- f. All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;

- g. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to treatment, have a smooth impervious surface which is wiped down with a suitable disinfectant between the treatment of different clients, and thoroughly cleaned at the end of each working day;

- h. Where tables or couches are used, they shall be covered by a disposable paper sheet which shall be changed for each client;

- i. A notice or notices reading “No Smoking” are prominently displayed within the treatment area.

### 3. For the purpose of securing the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with the treatment –

- a. An operator shall ensure that, before use in connection with treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such articles used in the treatment –

- i. is clean and in good repair, and, so far as is appropriate, is sterile;

- ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilised;

- b. An operator shall ensure that –

- i. any needle, metal instrument, or other item of equipment, used in treatment or for handling instruments and needles used in treatment, is in a sterile condition and kept sterile until it is used;

- ii. all dyes used for tattooing are bacteriologically clean and inert;

- iii. the containers used to hold the dyes for each customer are either disposed of at the end of each session of treatments, or are sterilised before re-use;

- c. A proprietor shall provide –

- i. adequate facilities and equipment for the purpose of sterilisation (unless pre-sterilised items are used) and of cleansing, as required in pursuance of these byelaws;

- ii. sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;

- iii. an adequate constant supply of clean hot and cold water readily available at all times on the premises;

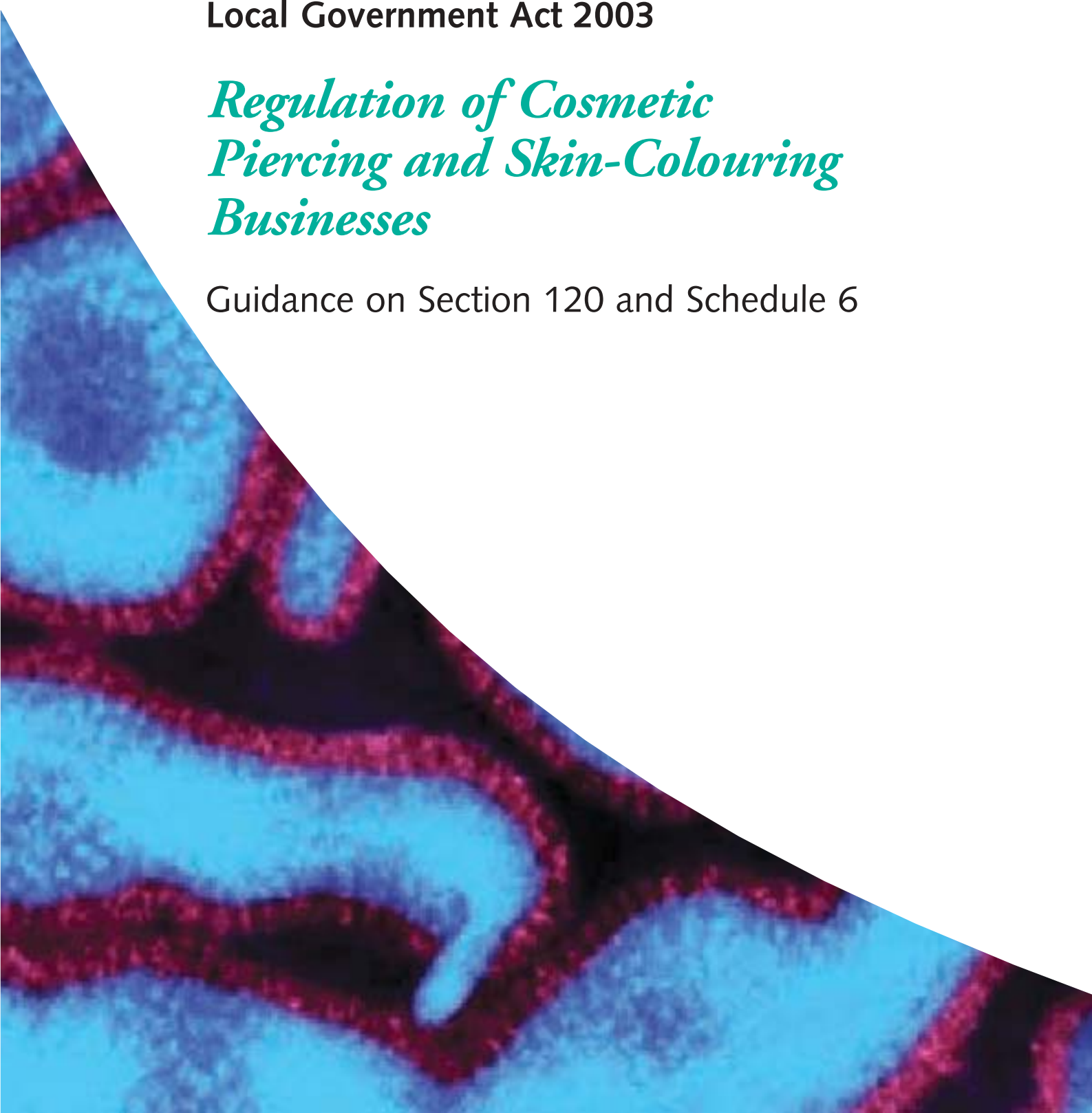
- iv. adequate storage for all items mentioned in byelaw 3 a and b above, so that those items shall be properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.



Local Government Act 2003

*Regulation of Cosmetic  
Piercing and Skin-Colouring  
Businesses*

Guidance on Section 120 and Schedule 6





**Local Government Act 2003**

***Regulation of Cosmetic  
Piercing and Skin-Colouring  
Businesses***

Guidance on Section 120 and Schedule 6



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# Introduction

1. This guidance explains the provisions in section 120 and Schedule 6 of the Local Government Act 2003 on the regulation of cosmetic piercing and skin-colouring businesses, which amend section 15 of the Local Government (Miscellaneous Provisions) Act 1982. The measures will come into force on 1 April 2004, at which time local authorities will be able to decide whether to implement them locally.
2. These new provisions give local authorities in England (outside London) and in Wales, specific powers relating to persons carrying on businesses of cosmetic piercing (piercing of the body including the ear) and semi-permanent skin-colouring (including micropigmentation, semi-permanent make-up and temporary tattooing).<sup>1</sup> Local authorities will be able to require such businesses:
  - to register themselves and their premises; and
  - to observe byelaws relating to the cleanliness and hygiene of premises, practitioners and equipment.
3. London local authorities already have such powers under private legislation (London Local Authorities Act 1991 and the Greater London Council (General Powers) Act 1981).
4. These measures are intended to increase health protection and reduce the risk of transmission of blood-borne virus (BBV) infections such as HIV, hepatitis B and hepatitis C and other infections. The Department of Health has produced model byelaws that local authorities may wish to adopt in their area to facilitate consistency of enforcement. These are included in **Annex 2** of this document.
5. This document also provides guidance on the procedure for the confirmation of byelaws by the Secretary of State for Health (**Annex 2**), sources of further information (**paragraph 25**) and an example of a leaflet that local authorities may wish to use in informing businesses of the change in the law (**Annex 3**).
6. Local authorities that have already resolved to adopt the 1982 Act in relation to tattooing, ear-piercing and electrolysis (section 15) can move straight to the introduction of byelaws. Local authorities who have not adopted section 15 in its entirety will need to go through the process of resolving that the new provisions should apply in their area as required by section 13 of the 1982 Act. Transitional provisions are explained in **paragraph 14**.

## Guidance from the Health and Safety Executive on the enforcement of skin piercing activities

7. Local authorities may find it helpful to read the Health and Safety Executive/Local Authorities Enforcement Liaison Committee (HELA) Local Authority Circular 76/2: *Enforcement of skin piercing activities* (October 2001). This contains comprehensive guidance on issues such as infection control, waste disposal and aftercare advice – <http://www.hse.gov.uk/lau/lacs/76-2.htm>

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<sup>1</sup> Micropigmentation, semi-permanent make-up and temporary tattooing are techniques similar to tattooing, which involve injecting vegetable/chemical dyes into the skin, for example, as eye liner or lip liner, for areola reconstruction or to apply tattoo motifs. The pigmentation lasts for several years and is reputed to be non-permanent unlike traditional tattooing.

## Background

### The reason for the change in the law

8. Cosmetic piercing and semi-permanent skin-colouring carry a potential risk of BBV transmission if infection control procedures are not observed (e.g. the use of sterile equipment for each client). Until the change in the law in the Local Government Act 2003, local authorities in England (outside London) and in Wales did not have powers to require businesses offering these services to register and observe byelaws relating to the cleanliness and hygiene of premises. Local authorities' powers were limited to regulating ear piercing, tattooing, electrolysis and acupuncture. A joint Department of Health and Welsh Office consultation exercise in 1996 elicited widespread support for changing the law to extend local authorities' powers.
9. Local authorities in London, which are covered by separate private legislation, already have powers to licence and inspect cosmetic body piercing and semi-permanent skin colouring businesses (London Local Authorities Act 1991 and the Greater London (General Powers) Act 1981). The new legislation provides a consistent level of health protection across England and Wales.

## The legal framework

### The Local Government Act 2003 and the Local Government (Miscellaneous) Provisions Act 1982

10. Before the new provisions were introduced by the Local Government Act 2003, local authorities had powers under the Local Government (Miscellaneous) Provisions Act 1982 to regulate ear piercing, tattooing, acupuncture and electrolysis by requiring registration and observance of byelaws.
11. The Local Government Act 2003 amends the 1982 Act to include cosmetic piercing and semi-permanent skin-colouring businesses in the list of those which local authorities have powers to regulate. The new provisions are explained in more detail below, including the new terminology that the legislation uses i.e. *cosmetic piercing* and *semi-permanent skin-colouring*.

### The new provisions

#### Section 120 of the 2003 Act

12. The provisions in section 120 of the Local Government Act 2003 essentially add cosmetic piercing and semi-permanent skin-colouring businesses to section 15 of the 1982 Act so that local authorities may compel persons carrying on such businesses to register themselves and their premises and may make byelaws in respect of matters related to the cleanliness of such businesses. Local authorities in London already have similar powers under private legislation (the London Local Authorities Act 1991 and the Greater London Council (General Powers) Act 1981). Section 120 is reproduced at **Annex 1**.



13. Section 120 introduces new terminology for simplicity and clarity as follows:
- *ear piercing and cosmetic body piercing* are encompassed in the single term “**cosmetic piercing**”, (which is also the term used in the London legislation); and
  - *micropigmentation, semi-permanent make-up and temporary tattooing* are covered by the umbrella term “**semi-permanent skin-colouring**”. Semi-permanent skin colouring is defined as “**the insertion of semi-permanent colouring into a person’s skin**” (section 120(5)). This approach allows for other similar activities to be covered in future.

### Transitional provisions: Schedule 6 of the 2003 Act

14. The Schedule is intended to provide for transition from the current legislation to the amended legislation and to avoid disruption to local authorities and businesses by providing that:
- persons and premises already registered for activities covered by section 15 of the current legislation (i.e. tattooing, ear piercing and electrolysis) are unaffected;
  - pending local authority resolutions to apply section 15 of the 1982 Act in their area are unaffected;
  - where a local authority has already resolved that section 15 of the 1982 Act should be brought into force in their area for tattooing, ear piercing and electrolysis, then the local authority will be automatically enabled to apply the registration and byelaws regime to cosmetic piercing and semi-permanent skin colouring;
  - a person and premises already registered for ear piercing shall be counted as registered for cosmetic piercing until that person subsequently provides another form of cosmetic piercing, or those premises are subsequently used to provide another form of cosmetic piercing (i.e. cosmetic piercing of a part or parts of the body other than the ear), when a new registration would be required.

### Section 16 of the 1982 Act

15. Section 16 of the 1982 Act also applies to cosmetic piercing and semi-permanent skin-colouring businesses. It provides for offences and for non-custodial penalties (summary conviction and fine) for trading without local authority registration or breaching local authority byelaws. The court may also order suspension, or cancellation, of registration (whether of a person or premises) on conviction. When cancellation of registration happens, the court may order a fine, increased on a daily basis for late surrender of the cancelled registration certificate. There is also an offence of not displaying a certificate of registration or byelaws (for which a person is liable on summary conviction to a fine).

### Registration fees

16. Section 15(6) of the Local Government (Miscellaneous Provisions) Act 1982 enables local authorities to charge reasonable registration fees for registration of persons carrying on businesses of cosmetic piercing or semi-permanent skin-colouring. The fee might cover initial inspection(s) associated with registration, advising the business about registration and associated administration.

## Byelaws

17. Section 15(7) of the Local Government (Miscellaneous Provisions) Act 1982 provides for local authorities to make byelaws for cosmetic piercing and semi-permanent skin-colouring for the purpose of securing:
  - the cleanliness of premises and fittings;
  - the cleanliness of the operators;
  - the cleansing and, if appropriate, sterilization of instruments, materials and equipment.
18. Model byelaws for cosmetic piercing and semi-permanent skin-colouring businesses are attached at **Annex 2** with a guidance note on the procedure for seeking the Secretary of State's confirmation of such byelaws under section 236 of the Local Government Act 1972.

## Resources

19. Costs to local authorities of implementing these new provisions are estimated to be relatively small and will be offset by several factors. As mentioned above, local authorities will be able to charge reasonable registration fees. They will already be inspecting many of these businesses, as the premises may be registered for other skin piercing activities, such as ear piercing, tattooing or electrolysis. In addition, local authorities already inspect these businesses under health and safety at work legislation. Therefore additional resources will not be made available by central Government.

## Age of consent for cosmetic piercing

20. There is no statutory age of consent for cosmetic piercing (cosmetic body piercing and ear piercing). Cosmetic piercing of a minor is lawful provided a valid consent is given. Furthermore, the courts have held that a parent's right to decide on behalf of his or her child yields to the child's competence to make a decision (i.e. if he or she is capable of understanding the nature of the act to be done). Body piercing for sexual gratification is unlawful. Children under the age of 16 are not able to consent lawfully to a piercing that would be regarded as indecent assault. Genital or nipple piercing performed on someone under the age of 16 might be regarded as indecent assault under sexual offences legislation depending on the facts of the case. A statutory minimum age of consent for tattooing (18 years of age) is specified in the Tattooing of Minors Act 1969.
21. Detailed guidance on issues relating to the age of consent for cosmetic piercing is contained in the Health and Safety Executive's Local Authority Circular (LAC) 76/2: *Enforcement of skin piercing activities*, available on their website at: <http://www.hse.gov.uk/lau/lacs/76-2.htm> There are no current plans to introduce legislation to make the cosmetic piercing of minors a criminal offence. Introducing a minimum age of consent might result in children piercing themselves or each other in an unsafe and unhygienic way or going to disreputable businesses. The Government prefers that businesses carrying out cosmetic body piercing should be subject to local authority control so that these activities can be carried out in a safe and hygienic manner. This position is kept under review in collaboration with the Home Office, which takes the lead policy responsibility for this issue.

## Cosmetic piercing and relevant medical conditions

22. The above-mentioned circular from the Health and Safety Executive (<http://www.hse.gov.uk/lau/lacs/76-2.htm>) recommends that skin piercing businesses ask clients to make a declaration of relevant medical conditions which may indicate that the client should seek medical advice before going ahead with the procedure. A list of relevant medical conditions is included.
23. Recent advice from the British Society from Antimicrobial Chemotherapy states that anyone who has had previous heart surgery, or been diagnosed with a heart condition, should consult their doctor before having a piercing involving a mucous membrane (nose, lip, tongue or genitals), as there may be a risk of potentially serious infection. It is recommended that local authorities inform businesses of this advice so that they ask relevant clients to consult their GPs. The Department of Health is alerting GPs to this advice via its *GP Bulletin*.

## Commission for Healthcare Audit and Inspection

24. Establishments carrying out skin piercing may, in some instances, also provide services that will be subject to regulation by the Commission for Healthcare Audit and Inspection (CHAI) e.g. treatment with Class 3 or 4 lasers. In such cases, local authorities may wish to consult with CHAI to discuss co-operative arrangements to avoid unnecessary duplication of work. CHAI will take over this role from the National Care Standards Commission (NCSC) from 1 April 2004.

## Further sources of information

25. Further sources of useful information are:
  - Enforcement of skin piercing activities. Health and Safety Executive/Local Authorities Enforcement Liaison Committee (HELA) Local Authority Circular 76/2, October 2001. <http://www.hse.gov.uk/lau/lacs/76-2.htm>
  - Cosmetic treatment (Micro-pigmentation/semi-permanent tattooing/ semi-permanent make-up). Health and Safety Executive/Local Authorities Enforcement Liaison Committee (HELA) Local Authority Circular 14/1, October 2003. <http://www.hse.gov.uk/lau/lacs/14-1.htm>
  - Blood-borne viruses in the workplace: guidance for employers and employees. Health and Safety Executive <http://www.hse.gov.uk/pubns/indg342.pdf>
  - Body art, cosmetic therapies and other special treatments. Chartered Institute of Environmental Health. Barbour Index 2001;
  - Hairdressing And Beauty Industry Authority (HABIA) – the standards setting body for hair, beauty and body art. Fraser House, Nether Hall Road, Doncaster, DN1 2PH; Tel 01302 380000, Fax 01302 380028, Email [enquiries@habia.org](mailto:enquiries@habia.org); Web: <http://www.habia.org> (Approved National Occupational Standards (NOS) are currently available from HABIA for ear piercing and semi-permanent make-up, and will be available for cosmetic body piercing within 12 months).

# Annex 1

## Local Government Act 2003 – Regulation of Cosmetic Piercing and Skin-Colouring Businesses (Section 120 and Schedule 6)

### 120 Regulation of cosmetic piercing and skin-colouring businesses

- (1) Section 15 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) (regulation of tattooing, ear-piercing and electrolysis businesses) is amended as follows.
- (2) In subsection (1) (requirement for person carrying on business to be registered), for paragraph (b) (ear-piercing) there is substituted—
  - “(aa) of semi-permanent skin-colouring;
  - (b) of cosmetic piercing; or”(and in the side-note for “ear-piercing” there is substituted “semi-permanent skin-colouring, cosmetic piercing”).
- (3) In subsection (2) (requirement to register premises where business carried on)—
  - (a) for “ear-piercing” there is substituted “semi-permanent skin-colouring, cosmetic piercing”, and
  - (b) for “pierce their ears” there is substituted “carry out semi-permanent skin-colouring on them, pierce their bodies”.
- (4) In subsection (5) (local authority may not require particulars about individuals whose ears have been pierced etc.), for “or whose ears he has pierced” there is substituted “, whose bodies he has pierced or on whom he has carried out semi-permanent skin-colouring”.
- (5) After subsection (8) there is inserted—
  - “(9) In this section “semi-permanent skin-colouring” means the insertion of semi-permanent colouring into a person’s skin.”
- (6) Schedule 6 (which makes provision about transition) has effect.

## SCHEDULE 6

### SECTION 120: TRANSITION

#### **Commencement not to affect existing application of section 15 of the 1982 Act**

- 1 The coming into force of section 120 shall not affect the descriptions of person in relation to whom section 15 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) applies in an area in which that section is already in force.

#### **Commencement not to affect pending resolutions about the application of section 15 of the 1982 Act**

- 2 (1) This paragraph applies where immediately before the coming into force of section 120—
  - (a) there is in force a resolution under section 13(2) of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) that section 15 of that Act is to apply to an authority's area, and
  - (b) the resolution specifies as the day for the coming into force of that section the day on which section 120 comes into force, or any later day.
- (2) The coming into force of section 120 shall not affect—
  - (a) the validity of the resolution, or
  - (b) the descriptions of person in relation to whom section 15 of that Act applies in pursuance of the resolution.

#### **Additional powers of commencement in relation to section 15 of the 1982 Act as amended**

- 3 (1) This paragraph applies where an authority has before the coming into force of section 120 passed a resolution that provides, or resolutions that between them provide, for section 15 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) to apply to the authority's area in relation to all of the existing descriptions of person.
- (2) Section 13 of that Act shall have effect for the purpose of enabling the authority to bring section 15 of that Act into force in its area—
  - (a) in relation to persons carrying on the business of cosmetic piercing, and
  - (b) in relation to persons carrying on the business of semi-permanent skin-colouring.
- (3) In sub-paragraph (1), the reference to the existing descriptions of person is to the descriptions of person specified in section 15(1) of that Act immediately before the coming into force of section 120.

### **Effect of existing ear-piercing registrations following extension of control to cosmetic piercing**

- 4 (1) This paragraph applies where, immediately before section 15 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) comes into force in an authority's area in relation to persons carrying on the business of cosmetic piercing—
- (a) that section is in force in the area in relation to persons carrying on the business of ear-piercing, and
  - (b) a person is registered under that section by the authority to carry on a business of ear-piercing at premises in the area which are registered under that section for the carrying-on of that business.
- (2) From the coming into force of that section in that area in relation to persons carrying on the business of cosmetic piercing, the registrations of the person and the premises in respect of ear-piercing shall have effect as registrations in respect of cosmetic piercing, subject to sub-paragraph (3).
- (3) Sub-paragraph (2) ceases to apply when the business of cosmetic piercing carried on by the person at the premises subsequently first involves cosmetic piercing other than ear-piercing.

### **Interpretation**

- 5 In this Schedule, except paragraph 2(1)(a) and 3(1), any reference to section 15 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) includes a reference to section 16 of that Act so far as it has effect for the purposes of that section.

## Annex 2

# Guidance on applications to the Secretary of State for Health for confirmation of byelaws under section 236 of the Local Government Act 1972, and model byelaws

1. The Council shall pass a resolution:-
  - a. authorising the affixing of the common seal to the byelaws and
  - b. authorising the clerk to carry out the necessary procedure and apply to the Secretary of State for confirmation.
2. The seal should be affixed and duly attested, and the date of sealing inserted in the attestation. The date of sealing, and not the date of the resolution, is the date on which the byelaws are made, and until they are made the Council has no power to carry out the rest of the statutory procedure.
3. At least one clear calendar month before applying to the Secretary of State for confirmation:
  - a. Notice of the Council's intention to apply for confirmation must be given in one or more local newspapers circulating in the area to which the byelaws will apply. **(A suggested form of notice is at Appendix A)** A series of byelaws should be described by giving the heading they bear on the draft informally approved by the Secretary of State. If the byelaws are to apply to part only of the Council's district, the notice should explain which part will be affected.
  - b. A copy of the byelaws having been subject to the procedures at 2 above, must be deposited at the Council's offices and be open to public inspection without charge at all reasonable times during that month.
4. The byelaws may be submitted for confirmation any time after the month has elapsed. They should be printed to conform to the approved draft. The Secretary of State's seal and confirmation should be printed below the Council's seal and a space of at least 10 centimetres should be left. It would be helpful if the following could be typed on the left-hand side of the page as indicated:

The foregoing byelaws are hereby confirmed by the Secretary of State for Health

on \_\_\_\_\_ and shall come into operation on \_\_\_\_\_

Member of the Senior Civil Service  
Department of Health

**The Notes which do not form part of the byelaws should be printed after both the Council's and Secretary of State's seals.**

5. It would be helpful for the application to be accompanied by: -
  - (a). copy of the full Council's resolution (**a model notice of Council resolution is at Appendix B**);
  - (b). the sealed byelaws (2 sets) and a photocopy;
  - (c). the newspaper(s) containing the notice;
  - (d). the clerk's certificate as to the date and duration of deposit of a copy of the byelaws;
  - (e). a statement as to whether or not any objections were received by the Council;
  - (f). confirmation, where applicable, that the byelaws are identical to the model byelaws;
  - (g). confirmation of the Council's adoption of Section 14-17 and compliance with the provisions of Section 13 of the Local Government Act (Miscellaneous Provisions) Act 1982 particularly regarding the publishing of notice in a local newspaper.
6. The Secretary of State emphasises that he has power to confirm only if the procedure laid down in section 236 of the 1972 Act is properly carried out. He has no power to excuse deviation from this procedure.
7. The Secretary of State has power to fix the date on which the byelaws come into operation. He considers that the first day of a month will normally be most convenient; and as section 236(7) provides that, if he does not fix a date, byelaws shall come into operation one month after confirmation, he will normally bring byelaws into operation on the first day of the month next following the expiry of this period.



## Appendix A

DISTRICT/PARISH OF .....

### CONFIRMATION OF BYELAWS

Notice is hereby given that the ..... Council of ..... intend, after the expiry of the period mentioned below, to apply to the Secretary of State for Health for confirmation of byelaws made by the Council **(insert description of byelaws and state that they have been made under section 15 of the Local Government (Miscellaneous Provisions) Act 1982.**

Copies of these byelaws will be kept at the offices of the Council at ....., and will be open to public inspection without payment on any week day, not being a Bank Holiday, during the usual office hours, for one month from the date of the publication of this notice.

Copies of the byelaws or any part thereof will be supplied at a fee of 10p for each hundred words.

Any objection to the confirmation of the byelaws should be made by letter addressed to  
Mr G M Robb,  
Department of Health,  
Room 631B, Skipton House,  
80 London Road, London SE1 6LH.

(signed)

Town Clerk/Chief Executive  
**(Insert date of signature)**

## Appendix B

### Model notice of council resolution

1. The ..... Council resolved on [date] that the following provisions of the Local Government (Miscellaneous Provisions) Act 1982 shall apply to the area of this council:  
  
Section 15 – Tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis  
  
Section 16 – Provisions supplementary to sections 14 and 15  
  
Section 17 – Power to enter premises (acupuncture etc.)
2. The date [s]\* on which these provisions will come into force will be: (see note 3 below).
3. The general effect of this resolution is, subject to the exceptions detailed below, that a person who carries on the business of [tattooing]; [semi-permanent skin-colouring]; [cosmetic piercing]; or [electrolysis] must be registered with this Council, and they can only carry on their business in premises which have also been registered. The certificate of registration must be prominently displayed at the place where the business is carried on. The council is empowered to charge fees for registration. Applications for registration must be accompanied by the following information [to be specified by the local authority – see section 15(4) of the 1982 Act], in particular, details of the premises concerned and particulars of any conviction of the applicant under section 16 of the 1982 Act. A person who contravenes section 15 will be guilty of an offence, and liable, on conviction, to a fine not exceeding £1000, or suspension or cancellation of registration or both. An authorised officer of the Council may apply to a Justice of the Peace for a warrant to enter premises on suspicion that an offence under Section 16 is being committed there.
4. The Council [may apply in due course/will be applying in the near future]\* for confirmation of byelaws under this Act with regard to the cleanliness of premises, fittings, persons, instruments, materials and equipment connected with the businesses of [tattooing], [semi-permanent skin colouring], [cosmetic piercing], [electrolysis]\* in the area of the Council.
5. Exceptions:
  - i These provisions of the Act do not extend to the carrying on of the business of [tattooing], [semi-permanent skin-colouring], [cosmetic piercing] or [electrolysis]\* by or under the supervision of a registered medical practitioner (i.e. means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act).
  - ii A person who is registered under the provision of the Act specified in paragraph 1 above will not be committing an offence by engaging in the activity otherwise than at registered premises merely because he sometimes visits people at their request to provide his services.

**NOTES – not to form part of the model notice**

1. Passages marked [ ]\* to be modified by the Council according to the scope of Council's resolution.
2. The local authority should publish this notice in two consecutive weeks in a local newspaper circulating in their area.
3. The Council should specify the date or dates in paragraph 2. These can be the same for all sections listed in paragraph 1, or different, but
  - a. One month must pass between the day the resolution was passed and the first date of coming into force; and
  - b. First publication of the notice must not be later than 28 days before the coming into force of the provisions.

## Draft model byelaws

### Cosmetic piercing

Byelaws for the purposes of securing the cleanliness of premises registered under section 15 of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in those premises and of registered persons and persons assisting them and the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the business of cosmetic piercing made by ..... in pursuance of Section 15(7) of the Act.

1. Interpretation:
  - a. In these byelaws, unless the context otherwise requires –
    - “The Act” means the Local Government (Miscellaneous Provisions) Act 1982;
    - “Client” means any person undergoing treatment;
    - “Operator” means any person giving treatment;
    - “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 cosmetic piercing;
    - “The treatment area” means any part of the premises where treatment is given to clients.
  - b. The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.
2. For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that –
  - a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;
  - b. All waste materials, and other litters, arising from the treatment should be handled and disposed of as clinical waste in accordance with relevant legislation and guidance as advised by the local authority;
  - c. All needles used in treatment are single-use and disposable, as far as is practicable; and are stored and disposed of as clinical waste in accordance with the relevant legislation and guidance as advised by the local authority;
  - d. All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;
  - e. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to treatment, have a smooth impervious surface which is disinfected immediately after use and at the end of each working day;
  - f. Where tables and couches are used, they are covered by a disposable 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”, “No Eating or Drinking” is prominently displayed there.

3. For the purpose of securing the cleansing and so far as is appropriate, the sterilization of instruments, materials and equipment used in connection with the treatment –
  - a. An operator shall ensure that, before use in connection with treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in the treatment –
    - i. is clean and in good repair, and, so far as is appropriate, sterile;
    - ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilized.
  - b. An operator shall ensure that any needle, metal instrument, or other item of equipment, used in treatment or for handling instruments and needles used in the treatment is in a sterile condition and kept sterile until it is used;
  - c. A proprietor shall provide –
    - i. adequate facilities and equipment for the purpose of sterilization (unless pre-sterilized items are used) and of cleansing, as required in pursuance of these byelaws;
    - ii. sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
    - iii. an adequate constant supply of clean hot and cold water readily available at all times on the premises;
    - iv. adequate storage for all items mentioned in byelaw 3 a and b above, so that those items are properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.
4. For the purpose of securing the cleanliness of operators –
  - a. A proprietor shall ensure that –
    - i. any operator keeps his hands and nails clean and his nails short;
    - ii. any operator wears disposable surgical gloves that have not previously been used with any other client;
    - iii. any operator of the premises wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with any other client;
    - iv. any operator keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
    - v. any operator does not smoke or consume food or drink in the treatment area.
  - b. A proprietor shall provide;
    - i. suitable and sufficient washing facilities for the sole use of operators, including hot and cold water and sanitising soap or detergent;
    - ii. suitable and sufficient sanitary accommodation for operators.

COUNCIL'S SIGNATURE

COUNCIL'S SEAL

The foregoing byelaws are hereby confirmed by the Secretary of State for Health

on \_\_\_\_\_ and shall come into operation on \_\_\_\_\_

Member of the Senior Civil Service  
Department of Health

**NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS**

- A. Proprietors must take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act 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 VIII of the Act.
- B. Section 16(2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who contravenes any of 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 VIII 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 his registration and 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 for the person charged under sub-sections (1), (2), (8) or (10) of Section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.
- C. Nothing in these byelaws extends to the practice of cosmetic piercing by or under the supervision of a person who is registered as a medical practitioner or to premises on which the practice of cosmetic piercing is carried on by or under the supervision of such a person.

## Draft model byelaws

### Semi-permanent skin-colouring

Byelaws for the purposes of securing the cleanliness of premises registered under section 15 of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and registered persons and persons assisting them and the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the business of semi-permanent skin-colouring, made by ..... in pursuance of section 15(7) of the Act.

1. Interpretation:

a. In these byelaws, unless the context otherwise requires –

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

“Client” means any person undergoing treatment;

“Operator” means any person giving treatment;

“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 semi-permanent skin-colouring;

“The treatment area” means any part of the premises where treatment is given to clients.

b. The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2. For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that –

a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceilings are kept clean and in such good repair as to enable them to be cleaned effectively;

b. The treatment area is used solely for giving treatment;

c. The floor of the treatment area is provided with a smooth impervious surface;

d. All waste materials, and other litters, arising from the treatment should be handled and disposed of as clinical waste in accordance with relevant legislation and guidance as advised by the local authority;

e. All needles used in treatment are single-use and disposable, as far as is practicable; and are stored and disposed of as clinical waste in accordance with the relevant legislation and guidance as advised by the local authority;

f. All furniture and fittings in the premises are kept clean and in such good repair as to enable them to be cleaned effectively;

g. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to treatment, have a smooth impervious surface which is disinfected immediately after use and at the end of each working day;

h. Where tables and couches are used, they are covered by a disposable paper sheet which is changed for each client;





- v. any operator does not smoke or consume food or drink in the treatment area.
- b. A proprietor shall provide -
  - i. suitable and sufficient washing facilities for the sole use of operators, including hot and cold water, sanitising soap or detergent;
  - ii. suitable and sufficient sanitary accommodation for operators.

COUNCIL'S SIGNATURE

COUNCIL'S SEAL

The foregoing byelaws are hereby confirmed by the Secretary of State for Health

on \_\_\_\_\_ and shall come into operation on \_\_\_\_\_

Member of the Senior Civil Service  
Department of Health

**NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS**

- A. Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act 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 VIII of the Act.
- B. Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who contravenes any of 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 viii of the Act is found guilty of contravening these byelaws the Court may instead of or in addition to imposing the fine, order the suspension or cancellation of his registration and 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 for the person charged under sub-sections (1), (2), (8) or (10) of Section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- C. Nothing in these byelaws extends to the practice of semi-permanent skin-colouring by or under the supervision of a person who is registered as a medical practitioner or to premises on which the practice of semi-permanent skin-colouring is carried on by or under the supervision of such a person.

## Annex 3

# Example of leaflet for local authorities to use in informing businesses when the Local Government Act 2003 is brought into force in their area

### New requirements for [cosmetic body piercing] [micropigmentation, semi-permanent make-up and temporary tattooing] businesses

The Local Government Act 2003 has introduced new requirements for [cosmetic piercing (piercing of parts of the body, including the ear)] [semi-permanent skin-colouring (micropigmentation, semi-permanent make-up and temporary tattooing)] businesses.

From [insert date on which requirement to register and observe byelaws comes into force in the local authority area], [cosmetic piercing] [ semi-permanent skin colouring] businesses will have to:

- register with their local authorities; and
- follow byelaws on the cleanliness and hygiene of practitioners, premises and equipment to protect customers against the risk of infection.

It will be an offence to carry on such a business without being registered, to carry on such a business in premises that are not registered for that purpose or to breach byelaws.

The new legislation uses the terminology “cosmetic piercing” to include piercing of any part of the body, including the ear and “semi-permanent skin-colouring” as an umbrella term to include activities such as micropigmentation, semi-permanent make-up and temporary tattooing.

Please contact [insert name of local authority officer] at [insert name of local authority] for advice about registration and byelaws [or see] [insert local authority internet website address].

The Department of Health’s (DH) guidance to local authorities on the new requirements is available on the DH website at <http://www.dh.gov.uk/publications>

[ ] = delete as appropriate









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