Draft Order laid before the Scottish Parliament under sections 3A(3), 44(3) and 136(4)(b) of the Civic Government (Scotland) Act 1982, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

LICENCES AND LICENSING

PUBLIC HEALTH

The Civic Government (Scotland) Act 1982 (Licensing of Non-surgical Procedures) Order 2026

Made - - - -	*2026*
Coming into force - -	*2026*

The Scottish Ministers make the following Order in exercise of the powers conferred on them by sections 3A(1) and (2), 44(1)(b) and (2) and 136(2) of the Civic Government (Scotland) Act 1982(**a**) and of all other powers enabling them to do so.

In accordance with sections 3A(3) and 44(3) of that Act, a draft of this instrument has been laid before and approved by a resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Civic Government (Scotland) Act 1982 (Licensing of Non-surgical Procedures) Order 2026 and comes into force on the day after the day on which this Order is made.

Interpretation

2. In this Order—

"the 1978 Act" means the National Health Service (Scotland) Act 1978(**b**),

"the 1982 Act" means the Civic Government (Scotland) Act 1982,

"HIS" means Healthcare Improvement Scotland,

(**a**) 1982 c. 45. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). Section 3A was inserted by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 172(3).

(**b**) 1978 c. 29; section 10F(2) was inserted by the Public Services Reform (Scotland) Act 2010 (asp 8), section 108 and amended by S.S.I. 2016/148, S.S.I. 2017/67, S.S.I. 2024/172; section 17C was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), and was amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 2, S.S.I. 2004/58, and the Health and Social Care Act 2010 (c. 7), schedule 21, paragraph 3; section 17J was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 4; section 25 was amended by the Health Services Act 1980 (c. 53), schedule 6, paragraph 4 and schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 16, the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), sections 15 and 17 and S.S.I. 2005/2011.

"licensing authority" has the meaning given in section 2(2) of the 1982 Act.

Definition of non-surgical procedure

3.—(1) In this Order, a "non-surgical procedure"—

(a) means a procedure that is carried out on a natural person which—

(i) pierces or penetrates the person's skin, including by means of a needle, chemical, medicine, heat, cold, light, laser, sound or electricity, and

(ii) is of a kind specified in schedule 1, but

(b) does not include a procedure—

(i) for which a prescribed anaesthetic is used,

(ii) that is carried out on an intimate area, unless it is non-ablative laser treatment for hair removal,

(iii) that is provided by a person acting for or on behalf of the health service,

(iv) that is provided by a health care provider for the purpose of, or in connection with, preventing, diagnosing or treating an illness of the person mentioned in paragraph (a),

(v) that is designated as an activity for which a licence is required under the Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006(**a**), or

(vi) that is carried out in excepted premises.

(2) In this article—

"care home" means accommodation occupied exclusively or mainly by individuals aged 16 or over that is provided by an organisation carrying on a care home service (within the meaning of paragraph 2 of schedule 12 of the Public Services Reform (Scotland) Act 2010(**b**)),

"excepted premises" means—

(a) any premises of an independent hospital that is registered with HIS,

(b) any premises of an independent clinic—

(i) that is registered with HIS, and

(ii) whose services are provided or managed by any of the following persons—

(aa) a registered medical practitioner,

(bb) a person registered in the dentists register under the Dentists Act 1984(**c**),

(cc) a registered nurse who is noted in the Nursing and Midwifery Register as being qualified to order drugs, medicines and appliances as a nurse independent prescriber,

(dd) a registered midwife who is noted in the Nursing and Midwifery Register as being qualified to order drugs, medicines and appliances as a nurse independent prescriber,

(ee) a pharmacist independent prescriber,

(c) any premises (or vehicle), other than a dwelling or care home, at or in which general dental services are provided in accordance with an agreement pursuant to section 25 of the 1978 Act,

(d) premises, other than a dwelling or care home, whose address is specified in an agreement pursuant to section 17C of the 1978 Act as one at which primary medical services are to be provided in accordance with the agreement,

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(**a**) S.S.I. 2006/43 as amended by S.S.I. 2006/604.
(**b**) 2010 asp. 8.
(**c**) 1984 c. 24; section 5 is amended by S.I. 2005/2011, S.I. 2007/3101 and S.I. 2019/593.

(e) premises, other than a dwelling or care home, whose address is specified in a contract pursuant to section 17J of the 1978 Act as one at which general medical services are to be provided in accordance with the contract, or

(f) a registered pharmacy within the meaning of section 74 of the Medicines Act 1968(**a**),

"health care provider" means—

(a) an independent health care service that is registered with HIS,

(b) a regulated health care professional, or

(c) a person who in providing the procedure, is acting in accordance with the directions of a regulated health care professional,

"health service" means the health service established under section 1 of the 1978 Act,

"illness" includes—

(a) mental disorder within the meaning of section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003(**b**), and

(b) any injury or disability requiring medical, surgical or dental treatment or nursing,

"independent clinic" has the meaning given by section 10F(2) of the 1978 Act,

"independent health care service" has the meaning given by section 10F of the 1978 Act,

"independent hospital" has the meaning given by section 10F(2) of the 1978 Act,

"intimate area" means anus or genitals or an area around the anus or genitals,

"Nursing and Midwifery Register" means the register maintained under article 5 of the Nursing and Midwifery Order 2001(**c**),

"pharmacist independent prescriber" means a person who is—

(a) registered as a pharmacist in—

(i) Part 1 of the register maintained under article 19 of the Pharmacy Order 2010(**d**), or

(ii) the register maintained in pursuance of articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976(**e**), and

(b) noted in that register as being qualified to order drugs, medicines and appliances as a pharmacist independent prescriber,

"prescribed anaesthetic" means an anaesthetic that is a prescription only medicine within the meaning given by regulation 8 of the Human Medicines Regulations 2012(**f**),

"regulated health care professional" means a person who is regulated by any of the following—

(a) the General Medical Council,

(b) the General Dental Council,

(c) the General Optical Council,

(d) the General Osteopathic Council,

(e) the General Chiropractic Council,

(f) the General Pharmaceutical Council

(g) the Nursing and Midwifery Council,

(h) the Health and Care Professions Council.

(**a**) 1968 c. 67; section 74 was amended by the Statute Law Repeals Act 1993 (c. 50), schedule 1, part 12; S.I. 2010/231 and S.I. 2016/372.
(**b**) 2003 asp. 13.
(**c**) S.I. 2002/253 as amended by S.I. 2009/1182 and S.I. 2018/838.
(**d**) S.I. 2010/231 as amended by S.I. 2019/593.
(**e**) S.I. 1976/1213 (N.I. 22); article 6 is amended by S.R. 2008 No. 192 and S.I. 2019/585; article 9 is amended by S.I. 2019/585, the Coronavirus Act 2020 (c. 7) schedule 4, paragraph 4 and S.I. 2022/1023.
(**f**) S.I. 2012/1916 to which there are amendments but none are relevant.

Licensing of activity

4.—(1) The provision of a non-surgical procedure is designated as an activity for which a licence under Part 1 of the 1982 Act is required.

(2) But a licence is not required in respect of the carrying on of that activity before 6 September 2027.

Application of Part 1 of the 1982 Act

5. Part 1 of the 1982 Act has effect, subject to the modifications specified in schedule 2 of this Order, for the purposes of the licensing of the activity designated by article 4.

Transitional provision

6.—(1) A person who on or after 6 September 2027 carries on the activity designated by article 4 without a licence under Part 1 of the 1982 Act is not guilty of an offence under section 7(1) of that Act if—

(a) the person made an application to the licensing authority before that date for the grant of a licence under Part 1 of that Act in respect of the activity being carried out by the person, and

(b) that application has not yet been finally determined.

(2) For the purposes of paragraph (1)(b), an application is finally determined—

(a) when it is withdrawn by the applicant,

(b) when it is refused by the licensing authority and the period of 28 days specified in paragraph 18(4) of schedule 1 of the 1982 Act expires without an appeal against the refusal being made to the sheriff, or

(c) in a case where an appeal is made against a refusal by the licensing authority, when that appeal is disposed of.

(3) For the purposes of paragraph (2)(c), an appeal is disposed of—

(a) when it is abandoned by the appellant, or

(b) when a decision on it is made by the sheriff or a higher court and any period for making a subsequent appeal to a higher court expires without such a subsequent appeal being made.

Name
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

SCHEDULE 1

Article 3

SPECIFIED NON-SURGICAL PROCEDURES

Chemical peels

1. A procedure, including fruit acid peels or glycolic acid peels—

(a) in which a chemical is used to remove skin cells in the area of treatment, and

(b) which does not penetrate deeper than the epidermis.

Cryolipolysis

2. A procedure in which a device is used to reduce the temperature of a specific part of the body to destroy fat cells for the purpose of reducing fat deposits.

Cryotherapy (or cryocautery)

3. A procedure in which a cold liquid, gas or instrument is applied to destroy skin cells in a small and specific area of the body for the purpose of removing or reducing skin lesions or blemishes.

Electrocautery (or advanced electrolysis)

4. A procedure in which a device applies an electrical current to destroy skin tissue in a small and specific area of the body for the purpose of removing or reducing skin lesions or blemishes.

High intensity focused ultrasound

5. A procedure in which high intensity ultrasound is used to—

(a) destroy, tighten or cause scarring to skin tissue, or

(b) destroy fat cells.

Microneedling

6. A procedure in which microneedles are used to puncture skin to a depth of less than 1.5 millimetres, but does not include a procedure where microneedles are used to deliver radio frequency electromagnetic radiation.

Non-ablative laser and light treatment

7. A procedure in which light treatment or laser treatment is used to destroy or stimulate skin tissue or fat cells in a specific area of the body but which does not remove any of the epidermis.

Radio frequency treatments

8. A procedure, other than one using microneedles, in which radio frequency electromagnetic radiation is used to—

(a) destroy, tighten or cause scarring to skin tissue, or

(b) destroy fat cells.

Interpretation

9. In this schedule, references to "skin lesions or blemishes" includes acne, blisters, cysts, freckles, moles, skin tags, scarring, rashes and warts.

SCHEDULE 2

Article 5

APPLICATION OF PART 1 OF THE 1982 ACT

1. Part 1 of the 1982 Act has effect for the purposes of the licensing of the provision of a non-surgical procedure subject to the modifications in paragraphs 2 to 7 of this schedule.

2. In section 3 (discharge of functions of licensing authorities)—

(a) in subsection (1)(b), for "6 months" substitute "12 months", and

(b) in subsections (2) and (4)(a), for "6 month" substitute "12 month".

3. In section 5 (rights of entry and inspection)—

(a) omit the words "vehicle or vessel" in each place they appear,

(b) after subsection (1)(c) insert—

"(d) seize any thing found on the premises if the authorised officer of the licensing authority, the authorised civilian employee or constable has reasonable cause to believe that it may provide evidence of the commission of an offence under section 7,

(e) a thing seized under paragraph (d) must be returned when its retention is no longer justified for the purpose of—

(i) enabling it to be used in proceedings for an offence under section 7, or

(ii) enabling it to be forfeited in accordance with Part 2 of the Proceeds of Crime (Scotland) Act 1995(**a**) and

(f) paragraph (e) does not apply to perishable things which no longer have any commercial value.".

4. In section 6 (powers of entry to and search of unlicensed premises)—

(a) omit the words "vehicle or vessel" in each place they appear,

(b) in subsection (1) after "any constable" insert "(or any authorised officer of the licensing authority)",

(c) in subsection (2) after "A constable" insert "(or any authorised officer of the licensing authority)",

(d) in subsection (3)—

(i) after "in uniform" insert "(and where the person executing the warrant is an authorised officer of a licensing authority, that officer)",

(ii) after "the constable" insert "(or such authorised officer of the licensing authority)",

(e) in subsection (4)—

(i) after "permit a constable" insert "(or such authorised officer of the licensing authority"),

(ii) after "by a constable" insert "(or such authorised officer)", and

(f) after subsection (4), insert—

"(5) A constable or any authorised officer of the licensing authority may seize any thing found on the premises if the constable or authorised officer has reasonable cause to believe that it may provide evidence of the commission of an offence under section 7.

(6) A thing seized under subsection (5), must be returned when its retention is no longer justified for the purpose of—

(**a**) 1995 c. 43. Part 2 was amended by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), schedule 3, paragraph 40; S.S.I. 2015/338.

(a) enabling it to be used in proceedings for an offence under section 7, or

(b) enabling it to be forfeited in accordance with Part 2 of the Proceeds of Crime (Scotland) Act 1995.

(7) Subsection (6) does not apply to perishable things which no longer have any commercial value.".

5. In section 7 (offences, etc.)—

(a) in subsection (3), at the beginning for "It" substitute "Except where subsection (3A) of this section applies, it",

(b) after subsection (3) insert—

"(3A) This subsection applies in relation to a breach of the condition specified in paragraph 5(2D)(i) of schedule 1 where it is a defence for a person charged with an offence ("the accused") to show that the accused—

(a) had taken reasonable steps to establish the age of the person to whom a non-surgical procedure is to be provided ("the client") before providing the non-surgical procedure, and

(b) reasonably believed that the client was aged 18 or over at the time of providing the non-surgical procedure.

(3B) Without limiting the generality of subsection (3A)(a), the accused is to be regarded as having taken reasonable steps to establish the client's age before providing the non-surgical procedure if—

(a) the accused was shown any of the documents mentioned in subsection (3C), and

(b) the document would have convinced a reasonable person as to the client's age.

(3C) The documents are any documents appearing to be—

(a) a passport,

(b) a UK driving licence,

(c) a European photocard driving licence,

(d) a Ministry of Defence Form 90 (Defence Identity Card),

(e) a photographic identity card that includes the national Proof of Age Standards Scheme hologram,

(f) a national identity card issued by a member State, Norway, Iceland, Liechtenstein or Switzerland, or

(g) a Biometric Immigration Document issued in accordance with the Immigration (Biometric Registration) Regulations 2008(**a**).

(3D) It is to be regarded as shown that the accused took the reasonable steps mentioned in paragraph (a) of subsection (3A), or had the reasonable belief mentioned in paragraph (b) of that subsection, if—

(a) enough evidence is adduced to raise an issue as to whether that is the case, and

(b) the prosecution does not prove beyond reasonable doubt that is not the case.", and

(c) in subsection (5) omit the words "vehicle or vessel".

6. In section 8 (interpretation of Parts 1 and 2), for the definition of "premises" substitute—

""premises" includes any—

(a) land or building,

(b) vehicle, vessel, trailer, aircraft or hovercraft,

(c) tent or other moveable structure.".

(**a**) S.I. 2008/3048 as relevantly amended by S.I. 2012/594 and S.I. 2021/772.

7.—(1) Schedule 1 (licensing–further provisions as to the general system) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (2)(d) omit the words ", if any,", and

(b) in sub-paragraph (3) for "Where the application relates to a licence which is wholly or mainly to be carried on in premises, it shall" substitute "An application for a licence must".

(3) In paragraph 2—

(a) in sub-paragraph (2) omit "in relation to an activity wholly or mainly to be carried on in premises", and

(b) in sub-paragraph (7)(b) omit "in relation to an activity wholly or mainly to be carried on in premises".

(4) In paragraph 3(1)(e)(ii) omit "the application relates to a licence for an activity wholly or mainly to be carried out in premises and".

(5) In paragraph 4, after sub-paragraph (1) insert—

"(1A) The licensing authority must not make a final decision upon the application for a licence unless an authorised officer of the licensing authority has visited and inspected the premises where the non-surgical procedures are to be provided.".

(6) In paragraph 5—

(a) in sub-paragraph (1)(a) at the beginning insert "subject to sub-paragraph (2B),",

(b) after sub-paragraph (2A) insert—

"(2B) Where the licensing authority is considering an application for the grant or renewal of a licence, the licensing authority must not grant the licence unless it is satisfied that each of the conditions mentioned in sub-paragraph (2C) are met.

(2C) The conditions are that—

(a) the premises displays a notice advising—

(i) that a non-surgical procedure will not be carried out on any person under the influence of alcohol or drugs, and

(ii) that a non-surgical procedure will not be carried out on any person under the age of 18,

(b) the room to be used for the purposes of providing any non-surgical procedure has the following facilities—

(i) a wash-hand basin with hot and cold running water supplied by taps that are not operated by hand,

(ii) a paper towel holder containing paper towels,

(iii) a soap dispenser containing soap,

(iv) washable bed or chair with disposable sheet,

(v) a dispenser containing alcohol solution,

(vi) a waste bucket with a lid operated by motion sensor or pedal,

(vii) a sharps container for storage of needles after use, and

(viii) a first aid kit,

(c) there is a general purpose sink with hot and cold running water on the premises separate from the wash-hand basin required under sub-paragraph (2C)(b)(i),

(d) unless only disposable instruments are used within the premises for the provision of non-surgical procedures, the following equipment is stored and properly maintained for use on the premises—

(i) ultrasonic cleaners,

(ii) instrument baths,

(iii) autoclaves and autoclave pouches, and

(e) the premises are well ventilated and illuminated for the purposes of providing non-surgical procedures.

(2D) Without prejudice to the generality of sub-paragraph (2), or the requirements of sub-paragraphs (2B) and (2C), where a licensing authority grants or renews a licence for the provision of non-surgical procedures, the following mandatory conditions are imposed—

(a) the accommodation and facilities within the premises are to be maintained in good repair and a good state of cleanliness,

(b) only sterile, single-use disposable needles are to be used for the provision of non-surgical procedures,

(c) there are arrangements in place for appropriate waste disposal,

(d) a non-surgical procedure is to be administered by a practitioner wearing disposable non latex gloves which must be changed for each person to whom a non-surgical procedure is to be provided ("a client"),

(e) a supply of the following items is to be maintained—

(i) disposable non latex gloves,

(ii) sterile, single-use disposable needles,

(f) any equipment which is not disposable is sterilised, if practicable, or thoroughly cleaned with fresh disinfectant after each use,

(g) any equipment which is disposable is disposed of immediately after use in an appropriate waste receptacle,

(h) information, in an easy to understand format, is provided to prospective clients to explain—

(i) the process of administering non-surgical procedures,

(ii) the risks of each procedure, and

(iii) the aftercare requirements of each procedure, and

(i) non-surgical procedures must not be carried out on a person under the age of 18.",

(c) after sub-paragraph (7) insert—

"(7A) Where a licensing authority grants a licence under sub-paragraph (7) for a licence for the provision of non-surgical procedures, it must specify—

(a) the name and address of the person to whom the licence is granted,

(b) the address of the premises in which non-surgical procedures are to be provided, and

(c) where the premises are used for the carrying on of any trade or business, the name of that business.".

(7) In paragraph 8(3), after "this Act" insert "or in the case where a licence has been granted for the provision of non-surgical procedures".

(8) In paragraph 10(2)(a), omit ", where the licence relates to an activity wholly or mainly carried on in premises".

(9) After paragraph 19 insert—

"**19A.** In this schedule—

"autoclave" means a pressure vessel in which the lid is sealed by the internal pressure in the vessel and that is used to sterilise equipment used in connection with the provision of non-surgical procedures by means of steam,

"non-surgical procedure" has the same meaning as in the Civic Government (Scotland) Act 1982 (Licensing of Non-surgical Procedures) Order 2026,

"sharps container" means a container used for holding medical waste and devices which can cause physical injury, and

"ultrasonic cleaner" means a cleaning device which uses sound waves propagated through an aqueous medium at frequencies higher than the audible range.".

(10) Omit paragraphs 20 and 21.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates, at article 4, the activity of the provision of non-surgical procedures as an activity for which a licence under Part 1 of the Civic Government (Scotland) Act 1982 ("the 1982 Act") is required in terms of section 44(1)(b) of that Act.

Non-surgical procedures are defined in article 3 and schedule 1 of this Order.

The Order requires that the designated activity is to be licensed from 6 September 2027 (article 4), but transitional provision is made where an application is made before that date for the grant of an appropriate licence (article 6). In such a case the activity may be carried out (without a licence) until the licensing authority has made a decision on the licence. Where a decision to refuse an application is then appealed to the sheriff, the activity may be carried out until that appeal has been disposed of.

The licensing provisions of Part 1 of the 1982 Act, including schedule 1 of that Act, will apply to such licences with the following modifications in place, as set out in schedule 2 of this Order (article 5)—

- Section 3 of the 1982 Act is amended to allow local authorities 12 months rather than 6 months to determine licence applications (paragraph 2 of schedule 2).
- Section 5 of the 1982 Act is amended to create a power of seizure for a constable or a person acting on behalf of the local authority, or an authorised civilian employee where they have reasonable cause to believe that the thing seized may provide evidence of the commission of an offence under section 7 of the 1982 Act (paragraph 3 of schedule 2).
- Section 6 of the 1982 Act is amended to extend powers of entry to and search of unlicensed premises to any authorised officer of the licensing authority. It is also amended to create a power of seizure for a constable or an authorised officer of a licensing authority where they have reasonable cause to believe that the thing seized may provide evidence of the commission of an offence under section 7 of the 1982 Act (paragraph 4 of schedule 2).
- Section 7 of the 1982 Act is amended to include provision which sets out that it is a defence to show that an accused had taken reasonable steps to establish the client's age and reasonably believed that the client was aged 18 or over. Examples of proof of identification are listed to show when an accused is to be regarded as having taken reasonable steps (paragraph 5 of schedule 2).
- Section 8 of the 1982 Act is amended to insert a new definition of premises (paragraph 6 of schedule 2).
- Schedule 1 of the 1982 Act is amended (paragraph 7 of schedule 2)—
  - — to require that the licensing authority must not make a final decision regarding an application for a licence prior to visiting the premises where designated activity is to be carried out.
  - — to require that certain conditions are met before the licensing authority grants or renews a licence and stipulating the conditions which will be imposed when the activity is being carried out. This includes hygiene conditions and conditions related to the quality of the premises. Additionally, a condition attached to a licence is that non-surgical procedures should not be carried out on a person under the age of 18.
  - — to require that the name of the person to whom the licence is granted, the address of the premises and the name of any business which is trading at those premises must be specified in the licence.
  - — to disapply paragraph 8(3) of schedule 1 to the 1982 Act which provides that, on the death of the licence holder, the licence shall be deemed to have been granted to his executor and will remain in force for 3 months from the death of the licence holder.

— to provide additional definitions in a new paragraph 19A and to omit paragraphs 20 and 21.

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