

## Appendix D

### Department of Health Procedure for Making Byelaws

#### **Guidance On Making Applications To The Secretary Of State For Health For Confirmation Of Byelaws Under Section 236 Of The Local Government Act 1972**

The Department of Health has set out the following procedure in Annex 2 of their Guidance on Section 120 and Schedule 6 of the Local Government Act 2003 (Regulation of Cosmetic Piercing and Skin-Colouring Businesses):

1. The Council must pass a resolution authorising the affixing of the common seal to the byelaws and authorising the Head of Legal Services to carry out the necessary procedure and apply to the Secretary of State for confirmation of the byelaws. The Council's seal should be affixed and duly attested with the date of sealing inserted in the attestation. The date of sealing is the date on which the byelaws are made.
2. 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 series of byelaws should be described by giving the heading they bear on the draft informally approved by the Secretary of State.
  - b. A copy of the byelaws having been must be deposited at the Council's offices and be open to public inspection without charge at all reasonable times during that month.
3. 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 shall be printed below the Council's seal and a space of at least 10 centimetres should be left. To assist, 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*

4. The application should be accompanied by
  - (a) copy of the full Council's resolution
  - (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.

#### Note

The Secretary of State only has power to confirm byelaws if the procedure laid down in section 236 of the Local Government Act 1972 is properly carried out. There is no power to excuse deviation from this procedure.

The Secretary of State has power to fix the date on which the byelaws come into operation. It is considered that the first day of a month will normally be most convenient; and as section 236(7) provides that, if a date is not fixed, byelaws shall come into operation one month after confirmation, the Secretary of State will normally bring byelaws into operation on the first day of the month next following the expiry of this period.