

EXPLANATORY STATEMENT

DETERMINATION NO 22 OF 1996 DETERMINATION OF FEES UNDER THE SKIN PENETRATION PROCEDURES ACT 1994 FOR LICENSING UNDER THE ACT.

The *Skin Penetration Procedures Act 1994* was passed by the Legislative Assembly on 6 December 1994 and commenced on 23 June 1995. The aim of the Act is to regulate practices that affect the integrity of the human body and to minimise the transmission of blood borne diseases during skin penetration procedures.

A skin penetration procedure is defined in the Act as any process that involves piercing, cutting, puncturing or tearing of the skin or any part of the human body; or the administration of a dye or other substance for the purpose of colouring part of the skin of the human body. The processing of equipment used in skin penetration procedures is also covered by the Act. Closed ear piercing and the process of cutting, shaving or dyeing hair have not been included in the definition.

Occupational groups performing skin penetration as defined in the Act include most registered health professionals, acupuncturists, beauty therapists, tattooists and body piercers. Under the *Skin Penetration Procedures Act 1994* workers are required to meet minimum operating standards which have been set out in a Code of Practice. The Code has been developed by the Department in consultation with professional groups and other interested persons. The Code of Practice was gazetted on the 3 July 1995.

The *Skin Penetration Procedures Act 1994* allows that the Minister may by notice in the Gazette determine fees for the purposes of Act. The determination would be a disallowable instrument for the purposes of section 6 of the *Subordinate Laws Act 1989*.

The Act requires a person carrying on a business where skin penetration procedures are performed or performing skin penetration procedures to do so in accordance with a licence issued under the Act. Licences issued under the *Skin Penetration Procedures Act 1994* are perpetual licences and are renewed on or before the anniversary of the granting of the licence (subject to the licence being suspended or cancelled).

- section 14(2) requires an application made pursuant to section 14(1) for a business licence to be accompanied by the determined fee;
- section 15(2) requires an application made pursuant to section 15(1) for a operator's licence to be accompanied by the determined fee;
- section 23(1) states that a licensee shall on or before the anniversary of the granting of the licence to pay the determined annual fee. This fee has been determined under sections 14(2) and 15(2);
- section 24(3) allows a fee to be determined for an application to approve alterations in a premises used for skin penetration procedures.

Under section 13(2) of the *Skin Penetration Procedures Act 1994* persons who registered under certain relevant professional registration Acts are exempt from the requirement to hold an operator's licence because of the existence of other controls such as the professional conduct provisions in the various registration Acts. However, they will be required to obtain a business licence, if they are carrying on a business where skin penetration procedures are performed

Licence fees

This instrument sets out the fees set for a business or operator's licence application under different sections of the Act. There are two classes of operator's licences and one class for skin penetration procedures business licences.

The purpose of the fees is to contribute towards the cost of the ongoing monitoring program that involves interaction with operators and proprietors of businesses throughout the licence period of twelve months.

The fees have been based on recovering some of the costs of processing the licence application and monitoring the practitioners infection control procedures and the hygiene standards in the premises during the licence period.

The fee structure is as follows:

Operator's Licence

Under the *Skin Penetration Procedures Act 1994*

Class 1

An operator who performs a skin penetration procedure for a fee, reward or other consideration, other than a person who is exempt under section 13(2) of the Act, or who holds a Class 2 operator's licence.

A fee of \$35 has been determined.

Class 2

- Emergency services personnel;
- An operator who is also the proprietor of a skin penetration procedures business for which a current business licence has been issued;
- Student practitioner who is under the direct supervision of a registered health care provider or a licensed operator.

This class of operator's licence does not incur a fee.

The class 2 operators' licensing scheme is designed to ensure that it does not disadvantage certain person such as students, or emergency services personnel who perform skin penetration procedures as part of emergency medical treatment. This class of licence also applies to a practising operator who is the proprietor of a skin penetration procedures business.

Business Licence

A skin penetration procedure is defined in the Act as any process that involves piercing, cutting, puncturing or tearing of the skin or any part of the human body; or the administration of a dye or other substance for the purpose of colouring part of the skin of the human body. The processing of equipment used in skin penetration procedures is also covered by the Act. Closed ear piercing and the process of cutting, shaving or dyeing hair have not been included in the definition

Any business where skin penetration procedures occur is required to have a business licence

The determined fee for a business licence is \$100

Section 23 (1) Application to renew an operator's or business licence

Under Section 23(1) a licence issued under the above provisions will be renewed for twelve months if the application is made prior to the expiry date and is accompanied by the determined fee

The fee is as follows:

business licence - \$100

Class 1 operator's licence - \$35

Class 2 operator's licence - no fee

Section 24(1) Application for approval to carry out alterations in a skin penetration procedures premises.

The holder of a business licence must seek approval to carry out structural alterations to his or her premises or alter any appliances used in connection with skin penetration procedures. This requirement is to ensure that enforcement officers are aware of any alterations that may compromise infection control principles. The application is to be accompanied by a fee of \$50.

The fee is a contribution towards administration costs of processing the proposal, visits to the premises and other activities aimed at ensuring alterations comply with requirements. It is proposed that the provisions of this section should apply only when extensive alterations take place.