

DRAFT PIERCING AND TATTOOING (JERSEY) LAW 200-

**Lodged au Greffe on 11th April 2000
by the Health and Social Services Committee**



STATES OF JERSEY

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REPORT

1. Background

The Health and Social Services Committee is advised that activities such as tattooing and other forms of skin piercing could have potentially serious health implications relating to the spread of blood-borne diseases such as hepatitis B or HIV infection, or could result in permanent injury or disfigurement. There is currently no legislation in Jersey to regulate these activities, and the Committee considers it necessary to set minimum standards to protect the safety and health of the public, with particular regard to the interests of minors.

The purposes of the proposed Law are -

- to minimise any risk of infection or unnecessary injury arising from tattooing, ear piercing, body piercing, acupuncture and electrolysis;
- to protect minors from permanent and potentially disfiguring tattoos or body piercing.

2. Outline of the Law

It is intended that the objectives of the Law will be achieved by -

- requiring the registration of practitioners and premises involved in the above activities, apart from those health professionals registered under another Law (Article 2);
- prohibiting tattooing or body piercing of any person under the age of 18 years, and requiring that ear piercing, acupuncture or electrolysis procedures may only be carried out on a person under the age of 18 years with the consent of the parent or guardian, except when authorised by a medical or dental practitioner (Article 3);
- authorising designated officers to enter registered premises, where there are reasonable grounds to do so, to inspect and monitor compliance with the appropriate standards (Articles 4, 5 and 6);
- enabling the Health and Social Services Committee to introduce and require compliance with approved standards and Codes of Practice (Article 7);
- enabling the Committee to refuse or revoke the registration of a practitioner or that of his premises if he fails to comply with an Order or a Code or Practice under the Law (Article 8); and to provide for appeal to the Royal Court against such a decision of the Committee (Article 9);

The Committee would also be able to make Orders relating to the registration procedures, for the purposes of setting minimum qualifications and standards and to require treatment records to be kept (Article 10). Transitional arrangements are made for existing practitioners to apply for registration within one month of the Law coming into force (Article 11). A criminal liability also applies to a person who aids, abets, counsels or procures the commission of an offence under the Law and in respect of the officers or members of a body corporate.

3. Issues

The Committee has given careful consideration, after consultation with a variety of practitioners involved in the procedures concerned, to the extent of regulation necessary and the potential impact of any standards and Code of Practice on their businesses. It is apparent that the great majority of practitioners already maintain high standards to ensure the safety and health of their clients, and the proposed Law will have little impact on their practice. However, the registration requirements are considered necessary to ensure that *all* those concerned continue to meet the appropriate standards and that the Committee is empowered to monitor conformance and take action should any fall short of the safety standards.

The question of age limits for tattooing and body piercing has been the subject of some public debate and, when the legislation was initially proposed, contrasting views were expressed as to whether a liberal approach might be adopted or if a measure of protection was appropriate for minors. Having taken into consideration the potentially permanent and disfiguring nature of tattooing and some forms of body piercing, and with reference to similar legislation in other jurisdictions, the Committee believes it is necessary to prohibit these particular procedures from being carried out on any minor (except in circumstances when this may be authorised by a medical or dental practitioner). However, the Committee proposes that other lesser forms of skin piercing, i.e. acupuncture, ear piercing and electrolysis, should be permissible for a minor, providing his

or her parent or guardian has given consent.

In regard to the particular activities which are included within the scope of the Law, the Committee does not discriminate between those practices that might be considered therapeutic, artistic or cosmetic, or the professional standing of any of the practitioners involved, apart from an exemption in Article 2(4) in respect of those practitioners who are registered under any other Law. The criteria for inclusion reflect only the potential level of risk involved.

The implementation of this Law will be carried out through the Environmental Health Department and there are no significant manpower implications arising.

4. Conclusions

The Health and Social Services Committee proposes to minimise any risk of infection or unnecessary injury arising from tattooing, ear piercing, body piercing, acupuncture and electrolysis, and to protect minors from permanent and potentially disfiguring tattoos or body piercing.

The States are asked to support the draft Piercing and Tattooing (Jersey) Law 200- which is intended to achieve these objectives.

Explanatory Note

The purpose of the draft Law is to register and regulate persons who, whether or not for reward, practice acupuncture, body or ear piercing, electrolysis or tattooing on other persons and the premises on which those practices are carried out.

Article 1 is the interpretation provision.

Article 2 requires persons carrying on the practices of acupuncture, body or ear piercing, electrolysis or tattooing to be registered with the Committee. The premises on which these practices are carried out must also be so registered. Where the practices referred to are conducted as part of other professional activities, e.g. a doctor or nurse, for which a person is registered under another Law that person need not register under this Law.

Article 3 prohibits the practices under Article 2 being carried out on persons who are not of full age except where they are performed for medical or dental reasons by or under the authority of a doctor or dentist. However acupuncture, ear piercing and electrolysis can be performed on a person who is not of full age if the written consent of a parent or guardian is produced before the treatment.

Article 4, 5 and 6 deal with designated officers and their powers of entry and search.

Article 7 empowers the Committee to issue Codes of Practice relating to the practices.

Article 8 provides for revocation of a registration where a person is guilty of an offence under the Law or who does not follow a Code of Practice.

Article 9 provides for an appeal against the Committee's refusal to register a person or premises or revokes any registration.

Article 10 sets out the powers of the Committee to make Orders relating to registration, qualifications, standards of premises and records.

Article 11 provides transitional arrangements for persons carrying out the practices before this Law comes into force.

Article 12 deals with the criminal liability of accessories and officers of a body corporate.

Article 13 is the citation provision.

Where the draft Law prescribes a penalty by way of a fine not exceeding a specified level "on the standard scale", this is a reference to the scale set out in the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993. The maximum penalties for each level on that scale, currently, are -

Level 1	-	£50
Level 2	-	£500
Level 3	-	£2,000
Level 4	-	£5,000

PIERCING AND TATTOOING (JERSEY) LAW 200-

ARRANGEMENT OF ARTICLES

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PIERCING AND TATTOOING (JERSEY) LAW 200-

A LAW to regulate the practices of acupuncture, body and ear piercing, electrolysis and tattooing and the premises on which those practices are conducted, whether or not for reward, and for matters incidental thereto and connected therewith; sanctioned by Order of Her Majesty in Council of the

(Registered on the day of 200-)

STATES OF JERSEY

The day of 200-

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

ARTICLE 1

Interpretation

(1) In this Law, unless the context otherwise requires -

“acupuncture” means the insertion of solid needles into the skin in order to stimulate nerve impulses for medical purposes;

“body piercing” means total or partial penetration of any part of the skin other than the lower non-cartilaginous lobe of the pinna, using a needle or other implement, with the intention of creating an aperture for decorative or cosmetic purposes, including insertion through or into the skin, whether or not by the person carrying out the body piercing, of decorative jewellery;

“Committee” means Health and Social Services Committee;

“doctor” means a medical practitioner registered under the Medical Practitioners (Registration) (Jersey) Law 1960; [\[1\]](#)

“dentist” means a dentist registered under the Dentists (Registration) (Jersey) Law 1961; [\[2\]](#)

“ear piercing” means total or partial penetration of the lower non-cartilaginous lobe of the pinna, using a needle or other implement, with the intention of creating an aperture for decorative or cosmetic purposes, including insertion through or into the skin, whether or not by the person carrying out the ear piercing, of decorative jewellery;

“electrolysis” means the insertion of needles into the skin in order to apply electrical current for medical or cosmetic purposes;

“tattooing” means the insertion into the skin of any colouring material for decorative purposes and designed to leave a permanent mark; and

“treatment” means any operation in effecting acupuncture, body or ear piercing, electrolysis or tattooing.

(2) In this Law -

(a) a reference to an Article by number or letter only is a reference to an Article in this Law;

(b) a reference in an Article to a paragraph by number or letter only is a reference to a paragraph or letter in that

Article; and

- (c) a reference in a paragraph to any subdivision of a paragraph by number or letter only is a reference to a subdivision in that paragraph.
- (3) In this Law, unless the context otherwise requires -
 - (a) a reference to an enactment is a reference to that enactment as amended from time to time, and includes a reference to that enactment as extended or applied by or under another enactment (including another provision of this Law); and
 - (b) a reference to an enactment includes a reference to any Regulation, Order, Bye-law or Notice made or issued under that enactment.

ARTICLE 2

Registration

(1) No person shall conduct the practice of acupuncture, body or ear piercing, electrolysis or tattooing on another person whether or not for reward unless he is registered by the Committee under this Article.

(2) A person shall only conduct a practice referred to in paragraph (1) on premises registered by the Committee under this Article.

(3) Paragraph (2) is not contravened where a person registered under paragraph (1) and conducting the practice from premises registered under paragraph (2) occasionally visits persons off those premises for the purposes of administering a treatment.

(4) This Article shall not apply to a person who is registered under any other Law which permits the conducting of any practice referred to in paragraph (1) as part of the professional activities which that person is registered to perform in the Island.

(5) Any person who contravenes paragraph (1) or (2) shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale,^[3] or both.

ARTICLE 3

Treatment of persons not of full age

(1) Subject to paragraphs (2) and (3), no person shall administer any treatment to a person who is not of full age.

(2) Paragraph (1) shall not apply to where the treatment is necessary for medical or dental reasons and is administered by or under the authority of a doctor or dentist, respectively.

(3) Paragraph (1) shall not apply where the treatment relates to acupuncture, ear piercing or electrolysis if the written consent to the treatment by the parent or guardian of the person being treated is provided before the treatment is administered.

(4) Any person who contravenes paragraph (1) shall be guilty of an offence unless he can show that he believed, and had good reason to believe, that the person to whom the treatment was administered was of full age.

(5) Any person who is guilty of an offence under paragraph (4) shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale,³ or both.

ARTICLE 4

Appointment of designated officers

The Committee may appoint in writing any person who is, in the opinion of the Committee, suitably qualified, to be

a designated officer for the purposes of all or any part of this Law.

ARTICLE 5

Proof of authority

(1) A designated officer who is exercising his powers under this Law shall produce on request evidence of his authority to do so.

- (2) A designated officer shall also state on request -
- (a) his name; and
 - (b) the power that he proposes to exercise.

ARTICLE 6

General powers of entry and investigation

- (1) A power under this Article shall only be exercised -
- (a) where there are reasonable grounds for doing so;
 - (b) in the manner that is proportionate and otherwise reasonable;
 - (c) at a reasonable hour; and
 - (d) if the designated officer has given not less than 48 hours' notice in writing to the owner or the occupier.

(2) Paragraph (1)(c) and (d) shall not apply in an emergency.

Law - (3) A designated officer may in respect of any premises registered under Article 1(2), for the purposes of this

- (a) enter, inspect or search them;
- (b) take or remove from them, for analysis, samples of any substances, articles or other things found there; or
- (c) take or remove any substances, articles or other things found there, for the purposes of evidence in any criminal proceedings under this Law.

(4) Where the Bailiff, a Jurat, the Magistrate or Sous-Magistrate is satisfied on sworn information -

- (a) that there are reasonable grounds for the exercise of any power under paragraph (3); and
- (b) that in the circumstances of the case it is desirable to grant a warrant under this paragraph,

he may grant a warrant to a designated officer authorizing the officer at any time to enter the premises specified in the warrant and there exercise any powers under paragraph (3) and in doing so to use any reasonable force necessary.

(5) A warrant shall continue in force until -

- (a) the purposes for which the warrant is granted have been fulfilled; or
- (b) the expiry of the period of one month following its grant.

(6) Any person who without reasonable excuse intentionally obstructs a designated officer who is exercising or seeking to exercise any power under this Article shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale, ^[4] or both.

(7) Where a designated officer has exercised any powers under this Article in respect of any premises, he shall in

writing inform the owner or occupier of the premises as soon as reasonably practicable and in any event within 21 days -

- (a) of the powers he has so exercised; and
- (b) of everything he has taken or removed in the course of exercising those powers.

ARTICLE 7

Codes of Practice

(1) The Committee may issue a Code of Practice in relation to any practice referred to in Article 2(1) and in relation to the registered premises on which that practice is conducted.

(2) A person registered under Article 2(1) shall comply with any Code of Practice relevant to him or to the registered premises on which his practice is conducted.

ARTICLE 8

Revocation of Registration

Where a person is guilty of an offence against this Law or an Order made under it or he fails to comply with a Code of Practice the Committee may revoke his registration or that of his premises.

ARTICLE 9

Appeals

Where a person is refused registration under Article 2(1) or (2) or his registration is revoked under Article 8 he may appeal against the decision of the Committee to the Inferior Number of the Royal Court.

ARTICLE 10

Orders

(1) The Committee may prescribe, by Order, -

- (a) the procedures relating to applications for registration under Article 2(1) and (2) and fees payable in respect thereof;
- (b) minimum qualifications, either professional or by way of experience, required of an applicant under Article 2(1);
- (c) minimum standards required for the establishment and maintenance of premises registered under Article 2(2); and
- (d) records to be kept by a registered person in respect of persons to whom treatment is administered and in respect of the registered premises.

(2) Any person who contravenes any provision of an Order made under paragraph (1) shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding level 3 on the standard scale,^[5] or both.

(3) The Subordinate Legislation (Jersey) Law 1960^[6] shall apply to Orders made under this Article.

ARTICLE 11

Transitional provisions

Article 2 shall not apply to a person conducting a practice referred to therein or to the premises on which he conducts that practice on the day before this Law comes into force until the expiration of one month thereafter or until the

determination by the Committee of any application for registration under that Article made during that period, whichever is the later.

ARTICLE 12

Criminal liability

(1) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

(2) Where an offence under this Law committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of -

- (a) a person who is a director, manager, secretary or other similar officer of the body corporate; or
- (b) any person purporting to act in any such capacity,

the person shall also be guilty of the offence and liable in the same manner as the body corporate to the penalty provided for that offence.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

ARTICLE 13

Citation

This Law may be cited as the Piercing and Tattooing (Jersey) Law 200-.

[1] Tome VIII, page 829 and Volume 1992-1993, page 267.

[2] Volume 1961-1962, page 135, Volume 1982-1983, page 143 and Volume 1992-1993, page 243.

[3] Volume 1992-1993, page 437.

[4] Volume 1992-1993, page 437.

[5] Volume 1992-1993, page 437.

[6] Tome VIII, page 849.