



Public Health (Wales) Act 2017

2017 anaw 2

PART 3

TOBACCO AND NICOTINE PRODUCTS

CHAPTER 1

SMOKING

PROSPECTIVE

Offences

5 Offence of smoking in smoke-free premises or vehicle

- (1) A person commits an offence if the person smokes—
 - (a) in smoke-free premises;
 - (b) in a smoke-free vehicle.
- (2) For provision about smoke-free premises, see sections 7 to 14.
- (3) For provision about smoke-free vehicles, see section 15.
- (4) It is a defence for a person charged with an offence under this section to show that the person did not know, and could not reasonably have been expected to know, that the premises or vehicle concerned were smoke-free premises or a smoke-free vehicle.
- (5) If a person charged with an offence under this section relies on the defence in subsection (4), and evidence is adduced which is sufficient to raise an issue with respect to that defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: Public Health (Wales) Act 2017, Cross Heading: Offences is up to date with all changes known to be in force on or before 15 July 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

6 Offence of failing to prevent smoking in smoke-free premises

- (1) A person who controls or is concerned in the management of premises which are smoke-free by virtue of section 7 (workplaces) or 8 (premises that are open to the public) must take reasonable steps to cause a person smoking there to stop smoking.
- (2) A person who controls or is concerned in the management of premises within section 9(3) (registered day care premises) that are smoke free by virtue of section 9 must take reasonable steps to cause a person smoking there to stop smoking.
- (3) A person registered to act as a child minder under Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1) must take reasonable steps to cause a person smoking in premises within subsection (4) to stop smoking.
- (4) Premises are within this subsection if—
- (a) they form part of premises that are the usual place of residence of the registered person referred to in subsection (3), and
 - (b) they are smoke free by virtue of section 9.
- (5) Regulations may provide for a duty corresponding to that mentioned in subsection (1) in relation to—
- (a) premises which are smoke-free by virtue of section 10, 11 or 12,
 - (b) premises which are treated as smoke-free by virtue of section 13, or
 - (c) vehicles which are treated as smoke-free by virtue of section 15,
- to be imposed on a person, or description of person, specified in the regulations.
- (6) A person who fails to comply with a duty in subsection (1), (2) or (3), or any corresponding duty in regulations under subsection (5), commits an offence.
- (7) It is a defence for a person (“D”) charged with an offence under this section to show that D did not know, and could not reasonably have been expected to know, that the person in question was smoking.
- (8) If a person charged with an offence under this section relies on the defence in subsection (7), and evidence is adduced which is sufficient to raise an issue with respect to that defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.
- (9) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Status:

This version of this cross heading contains provisions that are prospective.

Changes to legislation:

Public Health (Wales) Act 2017, Cross Heading: Offences is up to date with all changes known to be in force on or before 15 July 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2017/949, art. 3 by [S.I. 2017/967 art. 2](#)