



Public Health (Wales) Act 2017

2017 anaw 2

PART 3

TOBACCO AND NICOTINE PRODUCTS

CHAPTER 1

SMOKING

PROSPECTIVE

Smoke-free premises

7 Workplaces

- (1) Premises in Wales are smoke-free for the purposes of this Chapter if they are workplaces.
- (2) A “workplace” means premises that are—
 - (a) used as a place of work by more than one person (even if the persons who work there do so at different times, or only intermittently), or
 - (b) used as a place of work by no more than one person but where members of the public might attend for the purpose of seeking or receiving goods or services from the person working there (even if members of the public are not always present).
- (3) If only part of the premises is used as a place of work, the premises are smoke-free by virtue of this section only to that extent.
- (4) The premises are smoke-free by virtue of this section only in those areas that are enclosed or substantially enclosed.

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- (5) The premises are smoke-free by virtue of this section all the time (including when not used as a place of work), except that premises used to any extent as a dwelling, that are smoke-free by virtue of this section, are smoke-free only when used as a place of work.
- (6) “Work”, in subsection (2), includes voluntary work.
- (7) See section 16 for exemptions.

8 Premises that are open to the public

- (1) So far as they are not smoke-free by virtue of section 7 (workplaces), premises in Wales are smoke-free for the purposes of this Chapter if they are open to the public.
- (2) Premises are open to the public for the purposes of this section if the public or a section of the public has access to them, whether by invitation or not, and whether on payment or not.
- (3) If only part of the premises is open to the public, the premises are smoke-free by virtue of this section only to that extent.
- (4) The premises are smoke-free by virtue of this section only in those areas that are enclosed or substantially enclosed.
- (5) The premises are smoke-free by virtue of this section only when open to the public.
- (6) See section 16 for exemptions.

9 Outdoor care settings for children

- (1) Outdoor care settings in Wales are smoke free for the purposes of this Chapter.
- (2) Premises are an outdoor care setting so far as—
 - (a) they are not enclosed or substantially enclosed, and
 - (b) they are within subsection (3) or (4).
- (3) Premises are within this subsection if—
 - (a) they are registered under Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1) (the “2010 Measure”) as being premises at which a person is authorised to provide day care for children, or
 - (b) they form part of premises that are so registered.
- (4) Premises are within this section if they form part of premises (the “domestic premises”) that are the usual place of residence of a person registered to act as a child minder under Part 2 of the 2010 Measure.
- (5) An outdoor care setting within subsection (3) is smoke free by virtue of this section only when day care for children is being provided—
 - (a) in the outdoor care setting, or
 - (b) in premises registered under Part 2 of the 2010 Measure (whether or not enclosed or substantially enclosed) of which the outdoor care setting forms part.
- (6) An outdoor care setting within subsection (4) is smoke free by virtue of this section only when—

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- (a) the child minder is acting as a child minder in the domestic premises (whether or not in a part of them that is enclosed or substantially enclosed) for at least one child, and
 - (b) that child or, as the case may be, at least one of those children is in the outdoor care setting.
- (7) For the purposes of this section, references to providing day care and acting as a child minder have the same meaning as in the 2010 Measure.
- (8) Premises are not to be treated as being within subsection (3) or (4) so far as they consist of the grounds of a school (for which see section 10 (school grounds)).

10 School grounds

- (1) Premises in Wales are smoke-free for the purposes of this Chapter so far as they consist of the grounds of a school.
- (2) In the case of premises consisting of grounds that adjoin the school concerned, the premises are smoke-free by virtue of this section only when either or both of—
- (a) the grounds, or any part of the grounds, or
 - (b) the school, or any part of it,
- are being used for the purpose of education or childcare.
- (3) In the case of premises consisting of grounds that do not adjoin the school concerned, the premises are smoke-free by virtue of this section only when the grounds, or any part of the grounds, are being used for the purpose of education or childcare.
- (4) The grounds of a school, for the purposes of this section, are premises that—
- (a) are used exclusively or mainly by the school, for purposes that include educational, sporting or recreational purposes, and
 - (b) are not enclosed or substantially enclosed.
- (5) In the case of a school that provides residential accommodation to pupils, the person in charge of the school may designate any area in the grounds as being an area in which smoking is to be permitted, and to that extent the premises are to be treated as not being smoke-free for the purposes of this Chapter.
- (6) Regulations may make provision—
- (a) specifying conditions to be met before an area may be designated under subsection (5),
 - (b) requiring the keeping of records of designations, and
 - (c) about the circumstances in which a designation is to cease to have effect.
- (7) Premises used to any extent as a dwelling are not smoke-free by virtue of this section.

11 Hospital grounds

- (1) Premises in Wales are smoke-free premises for the purposes of this Chapter so far as they consist of hospital grounds.
- (2) The premises are smoke-free by virtue of this section at all times.
- (3) The grounds of a hospital, for the purposes of this section, are premises that—
- (a) adjoin the hospital, and

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- (b) are used or occupied by it, but
 - (c) are not enclosed or substantially enclosed.
- (4) The person in charge of a hospital may designate any area in the grounds as being an area in which smoking is to be permitted, and to that extent the premises are to be treated as not being smoke-free for the purposes of this Chapter.
- (5) Regulations may make provision—
- (a) specifying conditions to be met before an area may be designated under subsection (4),
 - (b) requiring the keeping of records of designations, and
 - (c) about the circumstances in which a designation is to cease to have effect.
- (6) Premises consisting of an adult care home or of an adult hospice, or premises used to any extent as a dwelling, are not smoke-free by virtue of this section.

12 Public playgrounds

- (1) Premises in Wales are smoke-free premises for the purposes of this Chapter so far as they consist of a public playground.
- (2) The premises are smoke-free—
- (a) if the premises are within clearly marked boundaries, in the whole of the area within those boundaries;
 - (b) otherwise, only so far as within five metres of any item of playground equipment.
- (3) The premises are smoke-free by virtue of this section at all times.
- (4) Premises consist of a public playground for the purposes of this section if—
- (a) they are designed or adapted for the use, by children, of one or more items of playground equipment,
 - (b) a local authority or community council, or a person acting by virtue of arrangements made with a local authority or community council, controls them or is to any extent engaged in their management or maintenance, or makes arrangements in respect of their control or management or maintenance,
 - (c) they are open to the public, for the purpose (or the primary purpose) of the provision of play facilities for children, and
 - (d) they are not enclosed or substantially enclosed.

13 Additional smoke-free premises

- (1) Regulations may provide for any place in Wales, or description of place in Wales, that is not smoke-free by virtue of sections 7 to 12 to be treated as smoke-free premises for the purposes of this Chapter.
- (2) The place, or places falling within the description, need not be enclosed or substantially enclosed.
- (3) The regulations may provide for a place or description of place to be treated as smoke-free premises only if the Welsh Ministers are satisfied that doing so is likely to contribute towards the promotion of the health of the people of Wales.

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- (4) The regulations may provide for such places, or places falling within the description, to be treated as smoke-free premises only—
 - (a) in specified circumstances,
 - (b) at specified times,
 - (c) if specified conditions are satisfied, or
 - (d) in specified areas,or any combination of these.
- (5) The regulations may also provide for exemptions, including the imposition of specified conditions to be satisfied in order for an exemption to apply.
- (6) The conditions that may be specified under subsection (5) may include a condition that the person in charge of the place, or place falling within the description, has designated, in accordance with the regulations, any areas in which smoking is to be permitted.
- (7) Regulations under this section may not make provision in respect of premises used wholly or mainly as a dwelling; and to the extent that they make provision for premises used partly as a dwelling to be treated as smoke-free premises, regulations under this section must comply with section 14.

14 Further provision about additional smoke-free premises: dwellings

- (1) Regulations under section 13 that provide for premises used partly as a dwelling to be treated as smoke-free premises for the purposes of this Chapter must comply with the following requirements.
- (2) The regulations may only make provision in relation to those areas of such premises that are not enclosed or substantially enclosed.
- (3) The regulations may not provide for those areas to be treated as smoke-free premises unless—
 - (a) they are workplaces (within the meaning of section 7(2)), or
 - (b) they are open to the public (within the meaning of section 8(2)).
- (4) The regulations must provide that—
 - (a) those areas are to be treated as smoke-free premises only when they are used as a place of work or open to the public, and
 - (b) if only part of an area is used as a place of work or is open to the public, the area is to be treated as smoke-free only to that extent.

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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](#)