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*Status: Point in time view as at 04/02/2016.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Smoke-free Premises etc. (Wales) (Amendment) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

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WELSH STATUTORY INSTRUMENTS

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**2016 No. 118 (W. 55)**

**PUBLIC HEALTH, WALES**

**The Smoke-free Premises etc. (Wales)  
(Amendment) Regulations 2016**

*Made* - - - - 2 February 2016

*Coming into force* - - 4 February 2016

The Welsh Ministers, in exercise of the powers conferred by sections 3(1), (2), (6) and 79(3) of the Health Act 2006<sup>(1)</sup>, make the following Regulations, a draft of which was laid before the National Assembly for Wales in accordance with section 79(4) of that Act<sup>(2)</sup>.

**Title, commencement and application**

1.—(1) The title of these Regulations is the Smoke-free Premises etc. (Wales) (Amendment) Regulations 2016 and they come into force on 4 February 2016.

(2) These Regulations apply in relation to Wales.

**Commencement Information**

**II** Reg. 1 in force at 4.2.2016, see [reg. 1\(1\)](#)

**Amendment to the Smoke-free Premises etc. (Wales) Regulations 2007**

2.—(1) The Smoke-free Premises etc. (Wales) Regulations 2007<sup>(3)</sup> are amended as follows.

(2) After regulation 3 (exemptions for smoke-free premises) insert the following regulation —

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- (1) [2006 c. 28](#). The functions of the National Assembly for Wales as the “appropriate national authority” under the Act were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 ([2006 c. 32](#)).
- (2) Section 79(4) of the Health Act 2006 provides that the Secretary of State may not make an instrument under section 3(1) of the same Act unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. Paragraph 34 of Schedule 11 to the Government of Wales Act 2006 provides that the requirement of section 79(4) of the Health Act 2006 applies to instruments made by the Welsh Ministers as if the reference to each House of Parliament were a reference to the National Assembly for Wales.
- (3) [S.I. 2007/787 \(W. 68\)](#).

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### “3A. Temporary exemption for prisons

- (1) A designated room that is used as accommodation in a prison for persons aged 18 years or over is not smoke-free.
- (2) For the purposes of this regulation “designated room” means a cell which—
  - (a) has been designated in writing by the person in charge of the prison as being a room in which smoking is permitted;
  - (b) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid, floor-to-ceiling walls;
  - (c) does not have a ventilation system that ventilates into any other part of the premises (except any other designated rooms); and
  - (d) is clearly marked as a room in which smoking is permitted.
- (3) Paragraphs (1) and (2) cease to have effect on 5 April 2017.”.

#### Commencement Information

**I2** Reg. 2 in force at 4.2.2016, see [reg. 1\(1\)](#)

2 February 2016

*Mark Drakeford*  
Minister for Health and Social Services, one of  
the Welsh Ministers

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## XPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, made under Chapter 1 of Part 1 of the Health Act 2006, insert new regulation 3A into the Smoke-free Premises etc. (Wales) Regulations 2007 to exempt until 5 April 2017 designated rooms for adults in prisons in Wales from the smoke-free requirements of section 2 of the Health Act 2006.

Paragraph (2) of new regulation 3A provides that a “designated room” is a cell which has been designated in writing by the person in charge of the prison, is completely enclosed, does not have a ventilation system that ventilates into any other part of the premises, and which is clearly marked as a room in which smoking is permitted.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Tobacco Policy Branch of the Public Health Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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