
WELSH STATUTORY INSTRUMENTS

2020 No. 1211

**The Smoke-free Premises and
Vehicles (Wales) Regulations 2020**

PART 2

SMOKE-FREE PREMISES: EXEMPTIONS AND SIGNS

CHAPTER 1

Exemptions

Dwellings: exemptions

4.—(1) Premises used to any extent as a dwelling, or part of such premises, which would (but for this regulation) be smoke-free by virtue of section 7 or 8 of the Act are to be treated as not being smoke-free unless the premises come within paragraph (2) or (5).

(2) Premises come within this paragraph if they are smoke-free because they are workplaces within section 7(2)(a) of the Act and either condition 1 or 2 is met.

(3) Condition 1 is met if one or more of the persons who work at the premises do not live in the dwelling.

(4) Condition 2 is met if the persons who work at the premises all live in the dwelling and members of the public might attend the dwelling for the purposes of seeking or receiving goods or services from a person working from the dwelling.

(5) Premises come within this paragraph if they are smoke-free because they are workplaces within section 7(2)(b) of the Act.

Holiday or temporary accommodation: exemptions

5.—(1) Premises that—

(a) are not used to any extent as a dwelling, and

(b) consist of self-contained residential accommodation that would (but for this regulation) be smoke-free by virtue of section 7 or 8 of the Act,

are to be treated as not being smoke-free at any time during which they are being used as accommodation for holiday or temporary purposes.

(2) Paragraph (1) ceases to have effect at the end of the period of 12 months beginning with the day on which these Regulations come into force.

Adult care homes and adult hospices: designated rooms

6.—(1) A room in premises consisting of an adult care home or an adult hospice that would (but for this regulation) be smoke-free by virtue of section 7 or 8 of the Act is to be treated as not being smoke-free if conditions 1 and 2 are met.

- (2) Condition 1 is that the person in charge of the premises—
 - (a) designates the room as one in which residents of the adult care home or adult hospice who are aged 18 or over (and no other persons) are permitted to smoke, and
 - (b) keeps a record of all rooms that have been so designated.
- (3) Condition 2 is that the room—
 - (a) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor to ceiling walls,
 - (b) does not have a ventilation system that ventilates into a smoke-free part of the premises,
 - (c) does not have doors which do not mechanically close immediately after use if they open into smoke-free areas, and
 - (d) is clearly marked as a room in which smoking is permitted.
- (4) The person in charge of the premises may withdraw a designation at any time.

Research and testing facilities: designated rooms

7.—(1) A room in premises consisting of research and testing facilities that would (but for this regulation) be smoke-free by virtue of section 7 or 8 of the Act is to be treated as not being smoke-free if conditions 1, 2 and 3 are met.

- (2) Condition 1 is that the person in charge of the premises—
 - (a) designates the room as one in which smoking is permitted, and
 - (b) keeps a record of all rooms that have been so designated.
- (3) Condition 2 is that the room is used for tests and research which relate to—
 - (a) emissions from smoking,
 - (b) developing products for smoking with lower fire hazard,
 - (c) fire safety testing of materials involving products for smoking,
 - (d) development of smoking or pharmaceutical products that could result in the manufacture of less dangerous products for smoking, or
 - (e) smoking cessation programmes.
- (4) Condition 3 is that the room—
 - (a) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor to ceiling walls,
 - (b) does not have a ventilation system that ventilates into a smoke-free part of the premises,
 - (c) does not have doors which do not mechanically close immediately after use if they open into smoke-free areas, and
 - (d) is clearly marked as a room in which smoking is permitted.
- (5) The room is to be treated as not being smoke-free only when used for the purposes of the tests and research referred to in paragraph (3).
- (6) The person in charge of the premises may withdraw a designation at any time.

Mental health units: temporary exemption

8.—(1) A room in premises consisting of a mental health unit that would (but for this regulation) be smoke-free by virtue of section 7 or 8 of the Act is to be treated as not being smoke-free if conditions 1 and 2 are met.

- (2) Condition 1 is that the person in charge of the premises—

- (a) designates the room as one in which patients of the mental health unit who are aged 18 or over (and no other person) are permitted to smoke, and
 - (b) keeps a record of all rooms that have been so designated.
- (3) Condition 2 is that the room—
- (a) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor to ceiling walls,
 - (b) does not have a ventilation system that ventilates into a smoke-free part of the premises,
 - (c) does not have doors which do not mechanically close immediately after use if they open into smoke-free areas, and
 - (d) is clearly marked as a room in which smoking is permitted.
- (4) The person in charge of the premises may withdraw a designation at any time.
- (5) In this regulation, “mental health unit” means premises, or part of premises, maintained wholly or mainly for the reception and treatment of persons suffering from a mental disorder as defined in section 1(2) of the Mental Health Act 1983(1) but does not include an adult care home.
- (6) Paragraphs (1) to (5) cease to have effect at the end of the period of 18 months beginning with the day on which these Regulations come into force.

Hotels, guesthouses, inns, hostels and members’ clubs: temporary exemption

9.—(1) A bedroom in premises consisting of a hotel, guesthouse, inn, hostel or members’ club that would (but for this regulation) be smoke-free by virtue of section 7 or 8 of the Act is to be treated as not being smoke-free if conditions 1 and 2 are met.

- (2) Condition 1 is that the person in charge of the premises—
- (a) designates the bedroom as one in which smoking is permitted, and
 - (b) keeps a record of all rooms that have been so designated.
- (3) Condition 2 is that the bedroom—
- (a) has a ceiling and, except for doors and windows, is completely enclosed on all sides by solid floor to ceiling walls,
 - (b) does not have a ventilation system that ventilates into a smoke-free part of the premises,
 - (c) does not have doors which do not mechanically close immediately after use if they open into smoke-free areas, and
 - (d) is clearly marked as a room in which smoking is permitted.
- (4) The person in charge of the premises may withdraw a designation at any time.
- (5) Paragraphs (1) to (4) cease to have effect at the end of the period of 12 months beginning with the day on which these Regulations come into force.

Grounds of schools that provide residential accommodation to pupils: designated areas

10.—(1) Before an area within paragraph (2) may be designated under section 10(5) of the Act as an area in which smoking is permitted and so treated as not being smoke-free, conditions 1 and 2 must be met.

(2) An area is within this paragraph if it is an area in premises consisting of grounds that adjoin a school that provides residential accommodation to pupils that would (but for this regulation) be smoke-free by virtue of section 10 of the Act.

(1) 1983 c. 20. Section 1(2) was amended by the Mental Health Act 2007 (c. 12), Schedule 10, paragraph 2.

- (3) Condition 1 is that the person in charge of the premises specifies persons or descriptions of persons (“permitted persons”) who may use the area but a child may not be specified.
- (4) Condition 2 is that the area—
- (a) is no more than 8.25 square metres,
 - (b) is at least 10 metres away from any other premises that are smoke-free by virtue of the Act (other than the premises within paragraph (2)), and
 - (c) is clearly marked as an area in which a permitted person may smoke.
- (5) The person in charge of the premises must keep a record of all of the areas which have been designated under section 10(5) of the Act and of permitted persons.
- (6) The person in charge of the premises may vary or withdraw a designation at any time.

Hospital grounds: designated areas

11.—(1) Before an area within paragraph (2) may be designated under section 11(4) of the Act as an area in which smoking is permitted and so treated as not being smoke-free, conditions 1 and 2 must be met.

(2) An area is within this paragraph if it is an area in premises consisting of the grounds of a hospital⁽²⁾ that would (but for this regulation) be smoke-free by virtue of section 11 of the Act.

(3) Condition 1 is that the person in charge of the premises specifies persons or descriptions of persons (“permitted persons”) who may use the area but a child may not be specified.

(4) Condition 2 is that the area—

- (a) is not more than 8.25 square metres,
- (b) is at least 10 metres away from any other premises that are smoke-free by virtue of the Act (other than the premises within paragraph (2)), and
- (c) is clearly marked as an area in which a permitted person may smoke.

(5) The person in charge of the premises must keep a record of all of the areas which have been designated under section 11(4) of the Act and of permitted persons.

(6) The person in charge of the premises may vary or withdraw a designation at any time.

Duty to prevent smoking in school grounds, hospital grounds and public playgrounds

12. A person who controls or is concerned in the management of premises which are smoke-free by virtue of section 10 (school grounds), 11 (hospital grounds) or 12 (public playgrounds) of the Act must take reasonable steps to cause a person smoking there to stop smoking.

(2) “Hospital” is defined by section 28 of the Act as having the meaning given by section 206 of the National Health Service (Wales) Act 2006 (c. 42), and a mental health unit (within the meaning given by regulation 8(5)) falls within that definition.