WELSH STATUTORY INSTRUMENTS

2007 No. 787 (W.68)

PUBLIC HEALTH, WALES

The Smoke-free Premises etc. (Wales) Regulations 2007

Made - - - -	*9 March 2007*
	at 6am on 2 April
Coming into force - -	*2007*

The National Assembly for Wales, in exercise of the powers conferred by sections 2(5), 3, 5(1) and (2), 6, 8(3), 10 and 79(3) of, and paragraph 4 of Schedule 1 to, the Health Act 2006(**1**) and section 26 of the Welsh Language Act 1993(**2**), hereby makes the following Regulations:

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Smoke- free Premises etc. (Wales) Regulations 2007 and they come into force at 6am on 2 April 2007.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations (except where the context otherwise requires) —

"the Act" ("*y Ddeddf*") means the Health Act 2006;

"adult hospice" ("*hosbis i oedolion*") means an establishment, the whole or main purpose of which is to provide palliative care for persons aged not less than 18 years who are resident there and are suffering from progressive disease in its final stages;

"care home" ("*cartref gofal*") is to be construed in accordance with section 3 of the Care Standards Act 2000(**3**);

"designated" ("*dynodedig*") means designated in writing by the person in charge of premises;

"mental health unit" ("*uned iechyd meddwl*") means an establishment or part of an establishment the main purpose of which is the provision of treatment or nursing (or both) for persons suffering from mental disorder as defined in section 1(2) of the Mental Health Act 1983(**4**);

"private dwelling" ("*annedd breifat*") includes self-contained residential accommodation for temporary or holiday use and any garage, outhouse or other structure for the exclusive use of persons living in the dwelling;

(**1**) 2006 c. 28.
(**2**) 1993 c. 38.
(**3**) 2000 c. 14.
(**4**) 1983 c. 20.

"private vehicle" ("*cerbyd preifat*") means a vehicle which is used wholly or mainly for the private purposes of the person who owns it or who has a right to use it which does not derive from a payment or undertaking to pay for the use of the vehicle or its driver for a particular journey.

Meaning of "enclosed" and "substantially enclosed" premises

2.—(1) For the purposes of section 2 of the Act, premises are enclosed if they have a ceiling or roof and, except for doors, windows and passageways, they are wholly enclosed either permanently or temporarily.

(2) For the purposes of section 2 of the Act, premises are substantially enclosed if they have a ceiling or roof and any openings in the walls have a total area which is less than half of the area of the walls, including other structures which serve the purpose of walls.

(3) In determining the area of openings for the purposes of paragraph (2), no account is to be taken of openings in which there are doors, windows or other fittings which can be opened or shut.

(4) In this regulation "roof" includes any fixed or moveable structure or device.

Exemptions for smoke-free premises

3.—(1) A private dwelling is not smoke-free except for any part of it which is —

(a) shared with other premises (including any other private dwelling) or

(b) used solely as a place of work other than work which is excluded by paragraphs (2) or (3).

(2) Work undertaken in part of a dwelling which is used solely as a place of work is excluded from paragraph (1)(b) if no person (other than a person who lives in the dwelling) works in that part or is invited to attend that part in connection with the work.

(3) There is excluded from paragraph (1)(b) all work which is undertaken solely —

(i) to provide personal or health care for a person living in the dwelling;

(ii) to assist with the domestic work of the household in the dwelling;

(iii) to maintain the structure or fabric of the dwelling;

(iv) to install, inspect, maintain or remove any service provided to the dwelling for the benefit of persons living in it.

(4) Subject to paragraphs (5) and (6) the following descriptions of premises are not smoke-free —

(a) designated rooms for use by those aged 18 years or more in —

(i) a care home;

(ii) an adult hospice;

(iii) a mental health unit which provides residential accommodation for patients;

(b) designated rooms in a research or testing facility;

(c) designated bedrooms in a hotel, guesthouse, inn, hostel or members' club.

(5) For the purposes of paragraph (4) a "designated room" or a "designated bedroom" as the case may be, means a room which —

(a) has been designated by the person in charge of the establishment concerned as 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 or designated bedrooms, as the case may be);

(d) does not have any door which opens on to smoke-free premises that is not mechanically closed immediately after use; and

(e) is clearly marked as a room in which smoking is permitted.

(6) A designated room in a research or testing facility is not smoke-free whilst it is being used for any research or tests which relate to —

(i) emissions from tobacco and other products used for smoking;

(ii) development of products for smoking with lower fire hazard or the fire safety testing of materials involving products for smoking;

(iii) development of smoking or pharmaceutical products that could result in the manufacture of less dangerous products for smoking; or

(iv) smoking cessation programmes.

Smoke-free vehicles

4.—(1) Subject to the following paragraphs of this regulation, a vehicle shall be smoke-free if it is used —

(a) for the transport of members of the public or a section of the public (whether or not for reward or hire); or

(b) for work purposes by more than one person (even if the persons who use it for such purposes do so at different times, or only intermittently).

(2) This regulation applies to vehicles and parts of vehicles which are enclosed.

(3) A vehicle or part of a vehicle is enclosed for the purposes of paragraph (2) where it has doors or windows which may be opened but it is not enclosed unless it is wholly or partly covered by a roof.

(4) This regulation applies to all vehicles other than —

(a) aircraft;

(b) ships or hovercraft in respect of which regulations could be made under section 85 of the Merchant Shipping Act 1995 (c. 21) (safety and health on ships), including that section as applied by any Order in Council under section 1(1)(h) of the Hovercraft Act 1968 (c. 59) or to persons on any such ship or hovercraft; or

(c) private vehicles.

(5) In this regulation "roof" does not include any roof which is completely stowed away so that it does not cover any part of a compartment in which persons may travel.

No-smoking signs: smoke-free premises

5.—(1) For the purposes of section 6 of the Act, any person who occupies or is concerned in the management of smoke-free premises must make sure that no-smoking signs meeting the requirements specified in paragraph (2) are displayed in those premises in accordance with the requirements contained in paragraph (3).

(2) A no-smoking sign must —

(a) be flat and rectangular and at least 160 millimetres by 230 millimetres;

(b) contain a graphic representation of a burning cigarette enclosed in a red circle at least 85 millimetres in diameter with a red bar across the circle which crosses the cigarette symbol;

(c) contain the following words — "Mae ysmygu yn y fangre hon yn erbyn y gyfraith / It is against the law to smoke in these premises".

(3) A no-smoking sign complying with the requirements of paragraph (2) must be displayed in a prominent position at or near each entrance to smoke-free premises.

No-smoking signs: smoke-free vehicles

6.—(1) The relevant person in relation to a vehicle which is smoke-free by virtue of regulation 4 must make sure that no-smoking signs meeting the requirements specified in paragraph (2) are displayed on the vehicle in accordance with the requirements contained in paragraph (3).

(2) A no-smoking sign must contain a graphic representation of a burning cigarette enclosed in a red circle at least 75 millimetres in diameter with a red bar across the circle which crosses the cigarette symbol.

(3) A no-smoking sign complying with the requirements of paragraph (2) must be displayed in a prominent position in each compartment of the vehicle, which is wholly or partly covered by a roof, including a driver's compartment.

(4) In paragraph (3) "roof" does not include a roof which is completely stowed away so that it does not cover any part of a compartment in which persons may travel.

(5) For the purpose of this regulation and regulation 7, a "relevant person" in relation to a smoke-free vehicle means —

(a) the operator

(b) the driver, and

(c) any person on a vehicle who is responsible for order or safety on it.

Duty to prevent smoking in smoke-free vehicles

7. It is the duty of the relevant person in relation to a vehicle which is smoke-free by virtue of regulation 4 to cause a person smoking in the vehicle to stop smoking.

Enforcement: designation of enforcement authorities

8.—(1) County councils and county borough councils in Wales are designated as enforcement authorities for the purposes of Chapter 1 of Part 1 of the Act.

(2) Subject to paragraph (3), each enforcement authority has enforcement functions in relation to the premises and vehicles which are within its area.

(3) Where more than one enforcement authority is investigating the same person under powers conferred by Chapter 1 of Part 1 of the Act, the authorities concerned may by agreement transfer enforcement functions to one of them or to any other enforcement authority.

Enforcement: penalty notice

9.—(1) The penalty notice forms set out in the Schedule to these Regulations are specified in relation to the offences described in them.

(2) Where there is a change to the amount of a fixed penalty or a discounted amount or to a level on the standard scale, the relevant specified form must be varied to reflect that change.

(3) An enforcement authority may include information on penalty notice forms as to the method of payment or to facilitate financial and administrative processing of the forms and may include on the forms coats of arms, logos or other devices to represent the authority.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**5**).

Rhodri Morgan
9 March 2007 First Minister for Wales

(**5**) 1998 c. 38.