



Public Health (Wales) Act 2017

2017 anaw 2

An Act of the National Assembly for Wales to make provision for a national strategy on tackling obesity; about smoking; for a register of retailers of tobacco and nicotine products; about the handing over of tobacco and nicotine products to persons aged under 18; about the performance of certain procedures for aesthetic or therapeutic purposes; about intimate piercing of children; about health impact assessments; about assessing the local need for pharmaceutical services; about pharmaceutical lists; about assessing the local need for public toilets; about fixed penalty receipts for food hygiene rating offences; and for connected purposes. [3 July 2017]

Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:

PART 1

OVERVIEW

1 Overview

- (1) This Part of the Act is an overview of the main provisions of the Act.
- (2) Part 2 makes provision for a national strategy on tackling obesity.
- (3) Part 3 relates to tobacco and nicotine products. It—
 - (a) makes provision restricting smoking in workplaces, public places, outdoor care settings for children, school grounds, hospital grounds and public playgrounds, and confers power on the Welsh Ministers to make regulations restricting smoking in other premises, and in vehicles;
 - (b) makes provision for there to be a register of retailers of tobacco and nicotine products in Wales;
 - (c) confers power on the Welsh Ministers to make regulations specifying offences for the purpose of the making of orders in respect of premises in Wales restricting the sale by retail of tobacco or nicotine products;

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

Changes to legislation: Public Health (Wales) Act 2017 is up to date with all changes known to be in force on or before 19 June 2021. 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) View outstanding changes

- (d) makes it an offence for a person to hand over tobacco, cigarette papers or a nicotine product to someone aged under 18 who is not accompanied by an adult, where the tobacco (or the cigarette papers or nicotine product) is being delivered or collected under arrangements made in connection with its sale, and is not in a sealed and addressed package.
- (4) Part 4 makes provision about licensing the performance in Wales of special procedures (as defined in section 57): see further overview of Part 4 at section 56.
- (5) Part 5 makes it an offence for a person in Wales to perform, or to make arrangements to perform, an intimate piercing on a person under the age of 18; and defines the term “intimate piercing” by reference to certain body parts.
- (6) Parts 3 to 5 also contain provision about enforcement, including about offences and powers of entry.
- (7) Part 6 requires the Welsh Ministers to make regulations requiring public bodies to carry out health impact assessments.
- (8) Part 7—
 - (a) requires each Local Health Board in Wales to prepare and publish an assessment of the need for pharmaceutical services in its area, and to have regard to it in considering applications for inclusion in its pharmaceutical list;
 - (b) confers power on the Welsh Ministers to make regulations about circumstances in which a Local Health Board may invite applications for inclusion in its pharmaceutical list, and may remove a person from its pharmaceutical list.
- (9) Part 8 requires each local authority to prepare and publish a local toilets strategy which assesses the need for public toilets in its area and sets out steps that the authority proposes to take to meet that need.
- (10) Part 8 also restates the existing statutory power for a local authority to provide toilets in its area.
- (11) Part 9 makes provision about the use of fixed penalty receipts in respect of food hygiene rating offences.
- (12) Part 9 also contains general provisions, including about offences committed by bodies corporate, partnerships and unincorporated associations; about powers to make regulations under the Act; and about the coming into force of the provisions of the Act.

PART 2

OBESITY

2 National strategy on preventing and reducing obesity: publication and review

- (1) The Welsh Ministers must publish a national strategy on preventing obesity, and reducing obesity levels, in Wales.
- (2) The strategy must—
 - (a) specify objectives the Welsh Ministers consider will, if achieved, contribute towards preventing obesity;

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- (b) specify objectives the Welsh Ministers consider will, if achieved, contribute towards reducing obesity levels;
 - (c) identify how the Welsh Ministers propose to achieve the specified objectives.
- (3) The Welsh Ministers must review the strategy—
 - (a) at the end of the period of three years beginning with the date of first publication of the strategy, and
 - (b) at the end of each subsequent period of three years.
- (4) The Welsh Ministers may revise the strategy at any time.
- (5) If the Welsh Ministers revise the strategy, they must publish the revised strategy as soon as it is reasonably practicable to do so.
- (6) The Welsh Ministers must consult such persons as they consider appropriate—
 - (a) before they first publish the strategy, and
 - (b) subsequently, before each review under subsection (3).

Commencement Information

I1 [S. 2](#) in force at 4.10.2017 by [S.I. 2017/949](#), [art. 2\(a\)](#)

3 Implementation of national strategy

- (1) The Welsh Ministers must take all reasonable steps to achieve the objectives specified in the most recently published strategy under section 2.
- (2) Following each review of the strategy under section 2(3) the Welsh Ministers must publish a progress report.
- (3) A progress report is a report on progress made in achieving objectives specified in the strategy.

Commencement Information

I2 [S. 3](#) in force at 4.10.2017 by [S.I. 2017/949](#), [art. 2\(b\)](#)

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PART 3

TOBACCO AND NICOTINE PRODUCTS

CHAPTER 1

SMOKING

Introduction

4 Smoking

In this Chapter, references to smoking are to smoking tobacco or anything which contains tobacco, or to smoking any other substance; and smoking includes being in possession of lit tobacco or of anything lit which contains tobacco, or being in possession of any other lit substance in a form in which it could be smoked.

Commencement Information

I3 [S. 4](#) in force at 1.3.2021 by [S.I. 2021/202](#), [art. 2](#)

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.
- (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.

Commencement Information

I4 [S. 5](#) in force at 1.3.2021 by [S.I. 2021/202](#), [art. 2](#)

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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.

Commencement Information

- I5** [S. 6](#) in force at 29.9.2020 for specified purposes by [S.I. 2020/1048](#), [art. 2\(1\)\(a\)](#)
I6 [S. 6](#) in force at 1.3.2021 in so far as not already in force by [S.I. 2021/202](#), [art. 2](#)

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—