

Sub Committees on The Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012

Meeting Venue:
Committee Room 3 – Senedd

Meeting date:
29 January 2013

Meeting time:
09:00

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

Lara Date
Committee Clerk
029 2082 1821

Agenda

1. Introductions, apologies and substitutions (09.00)

2. The Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012 – Evidence Session 3 (09.00 – 10.00) (Pages 1 – 8)

BECTU

SFP(4)-02-13 – Paper 1

- Sian Gale, Chair South Wales Freelance Branch, BECTU

Equity

SFP(4)-02-13 – Paper 2

- Simon Curtis, National Organiser for Wales

3. The Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012 – Evidence Session 4 (10.00 – 11.00) (Pages 9 – 22)

Local Health Boards

SFP(4)-02-13 – Paper 3

- Dr Sharon Hopkins, Director of Public Health, Cardiff and Vale NHS Trust

Public Health Wales

SFP(4)-02-13 - Paper 4

- Dr Hugo Van Woerden, Director of Health and Healthcare Improvement Division



Response to the Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012

Introduction

BECTU (Broadcasting Entertainment Cinematograph and Theatre Union) is the independent trade union for those working in **broadcasting, film, theatre, entertainment and interactive media**. In the context of television and film BECTU represents a broad range of highly skilled professionals including **production, craft grades, camera and sound crews, animators, post production, technical, construction and clerical**. We have approximately **24,500 members** in the UK with approximately **1,500 members** in Wales. Many of our members are employed by **broadcasters BBC Wales, S4C and ITV Wales** but the majority are **freelance / sole traders**, run **micro enterprises** or work on **fixed term or rolling contracts** for **independent production companies**. Our members work on a very broad range of productions in **Wales, the UK and globally**.

Context

This information has been provided to demonstrate the current challenges faced by those working in the sector in Wales and how the rejection of this amendment could severely damage the work prospects of those working in the industry and undermine the Welsh Government's own economic policies.

The Creative Industries sector in Wales (that includes television and film) is amongst the fastest growing of the key sectors identified in the Welsh **Government's Economic Renewal: A New Direction**.

It includes:

- those industries which have their origin in individual creativity, skill and talent; and
- have a potential for wealth and job creation through the generation and exploitation of intellectual property.

Over the next few years in Wales we face at least **20% cuts at BBC Wales** and around **40% cuts at S4C**, this is currently leading to ongoing job losses at both broadcasters and has resulted in **redundancies** at the independent production companies that provide television programmes for these broadcasters. The cuts have also been detrimental to the employment of our freelance workforce, some are struggling to make a living and others are leaving **the industry** and taking their skills and expertise with them. The impact of these cuts is that the combined loss of highly trained and experienced professionals and a further decline in programme budgets will mean that both broadcasters will continue to lose the **ability** and **capacity** to **create high quality content for viewers in Wales.**

BECTU welcomes the significant increase in BBC network productions being produced in South Wales in particular, although along with our sister union Equity that represents performers, we have genuine concerns regarding the lack of Wales based crews and actors used on many of these prestigious productions. We also have concerns of some productions being branded as BBC Wales productions but are neither shot, crewed or cast in Wales.

A vast majority of the TV and Film industry in the UK is based in the London area, however there has been pressure in the past few years for a greater number of productions to be made in the nations and regions, unfortunately the number of network productions produced in Wales from UK broadcasters such as Channel 4, ITV and Sky remains very low. In the late 80's early 90's Wales had the second largest number of people working in TV and film outside of

London and the South East, however we have now moved down to around 5th position.

As a result of ongoing cuts in programme budgets and the increased **casualisation** of the sector many people are leaving the industry. The impact on women in Wales has been severe with the number of women working in creative media falling from **38% of the industry in 2006 to 28% in 2009**, this compares with 38% of women working in the sector in England in 2009.

The Consultation

BECTU generally wholeheartedly supports a ban on smoking in places where our members, other workers and the public work, and we are particularly proud that Wales implemented smoke-free premises at an early stage. However we also support the amendment for the exemption from the smoke free requirements for performers as long as the amendment is adhered to as outlined in this consultation, and we would add the following **recommendations**:-

- only to be used where smoking is key to the story line for historical or realistic character portrayal;
- is not used to glamourise or to portray smoking in a positive manner;
- only to be used if smoking cannot be replicated by the use of cigarette alternatives;
- a comprehensive health and safety risk assessment is undertaken
- by a competent person (e.g. a fully trained trade union health and safety representative) to include a detailed account of ventilation and smoke removal procedures thereby minimising any potential health risks to cast and crew

Please find below a brief response to specific questions outlined in the consultation document:

Is there a commercial need for this amendment to exempt performers from smoke-free requirements?

Yes there is a very compelling commercial need for this amendment. Without this exemption it is our belief that the TV and Film Industry in Wales will suffer due to there being an exemption in England. It is currently very difficult to attract productions into Wales and this will add further barriers and in some cases genuine artistic reasons for not bringing TV and Film productions here.

Will this amendment achieve its aim of supporting the television and film industry in Wales?

Yes, we believe that this amendment will contribute to its aim of supporting the television and film industry in Wales.

Is there sufficient clarity about the circumstances in which the exemption applies?

We believe this could be improved, clarification required for point two (see recommendations page 3 above.)

Do the conditions offer adequate protection to other performers, production staff and members of the public?

Not completely, however we believe that this could quite easily be remedied. See the recommendation above regarding health and safety risk assessments including ensuring that the premises are properly ventilated and that extraction processes are in place.

Might there be unintended consequences of introducing this exemption?

Yes. BECTU strongly believes that without this partial exemption there would be a further detrimental impact on the industry in Wales that could lead to more of our members either leaving the industry, leaving Wales or spending more of their time working outside of Wales. We also feel that this could have a greater impact on women (many who don't have the flexibility of working for long periods

www.bectu.org.uk

away from home) who often take on a greater amount of caring responsibilities making it difficult to sustain a career in the industry in Wales during what is already a challenging time (see information under context above.)

BECTU also believes that this undermines the Welsh Government's own sectoral priorities and hasn't considered the impact on protected groups as required under the GOWA 2006 (equality impact.)

What health policy considerations are relevant to this amendment?

BECTU believes that with the appropriate health and safety risk assessments being undertaken the risk to those working on the production should be minimal. Please also note our comment regarding not promoting smoking in any way. BECTU also feels strongly that the unions that represent those working in television and film are best placed to provide a realistic view on its impact on working people.

Finally please find below some comments from our members in Wales:-

"It seems ridiculous to me that we can film rape, murder, child abuse, mysogony, all kinds of extreme violence and its all fine as long as no one is smoking while its done."

"I'd probably prefer it if my kids didn't see smoking as cool or in any positive light really.....as its just self destruction. So I see where they are coming from, but I don't agree with a dumb blanket 'it doesn't exist' ban either. Especially if its bad for an industry that creates things and has to be realistic! Unban the ban."

David Donovan

Swyddog Genedlaethol Cymru
National Officer for Wales
029 20666 557
ddonovan@bectu.org.uk

Siân Gale

Cadeirydd, Cangen Llawrydd De Cymru,
Chair, South Wales Freelance Branch
029 2032 2582
sian@bectu.org.uk



performing for you
yn perfformio trostoch chi

Committee Clerk
Smoke-free Premises etc. (Amendment) Regulations Sub-Committees,
Committee Service
National Assembly for Wales
Cardiff Bay
CF99 1NA

22nd January 2013

Dear Sir/Madam,

The Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012

Equity is the UK based trade union for performers and other creative workers, representing over 36,500 people working across the entertainment industry and over 5,000 student members. As well as actors, dancers, singers, stage managers, theatre directors and designers, variety and stunt performers, Equity represents fashion and photographic models. In Wales Equity represents over 1,500 of whom about 450 are Welsh Speakers.

It is Equity policy to support a ban on smoking in all places where our members work, although we supported the narrow exemptions in England and Scotland to allow smoking by performers in theatre, film and TV production where smoking is integral to the performance.

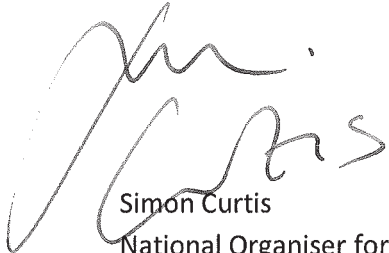
To that end we support the narrow amendment to allow smoking by performers in the television and film industry where smoking is integral to the performance and cannot be replicated by the use of cigarette alternatives. As we have in England and Scotland we would also support a narrow exemption on the same terms for theatre production if that were to be included.

We believe that this proposed amendment will provide an even playing field across the UK and allow Television and Film producers wishing to base their production in Wales, and provide work for our members and investment into the country, the ability to do so without any restrictions.

Equity continues to support the smoke-free provisions of the regulations, and welcomes the Assembly's recognition of the unique nature of performers within the regulations.

We have already taken up the opportunity to be available for the evidence sessions on the 29th January 2013 and will be happy to discuss any details of our submission at that time. If you have any further questions or comments regarding Equity's response please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Simon Curtis', written over a light blue horizontal line.

Simon Curtis
National Organiser for Wales
scurtis@equity.org.uk
029 20 397971



The Smoke-free Premises etc. (Wales) (Amendment) Regulation 2012 Consultation Response from Cardiff and Vale University Health Board

This paper seeks to provide the Enterprise and Business Sub-Committee and the Health and Social Care Sub-Committee (NAfW) with Cardiff and Vale University Health Boards' response to their request for evidence to inform the debate on the Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012. The consultation questions are addressed in the order they have been asked.

Consultation Questions

1. Is there a commercial need to this amendment to exempt performers from smoke-free requirements?

There is little available evidence to support the commercial need for the amendment. With the advent of special effects and realistic fake cigarettes any need to represent smoking in a production does not require smoking of real tobacco. The use of these props and effects enables the continued protection of employers and public alike. This applies to many other artistic representations, for example shootings, stabbings, operations, drinking alcohol, none of which require the actors to partake in a real event.

It is worth noting that the Special Committee on smoking (2004) in Public Places considered commercial arguments from a variety of industries and rejected them.

2. Will this amendment achieve its aim of supporting the television and film industry in Wales?

Since the ban in 2007 Wales has been successful in attracting several long running dramas. Casualty is one example. Prior to relocating the drama to Cardiff the BBC announced "The new location for Casualty is dependent on further value for money evaluations, ensuring maximum benefit for licence payers". It must be assumed that filming in Wales is 'value for money' as Casualty relocated here in 2001 although the economic evaluation is not readily available.

Welsh Government have also reported growth in Creative Industries in Wales between 2005-9 (Smoke Free legislation introduced 2nd April 2007). The

Wales Screen Commission estimates that film and TV companies spent more than £22m in Wales in 2011 – it is highly unlikely being able to smoke was a major issue in their decision to come to Wales.

It is notable that the creative industry in Scotland and Northern Ireland is continuing to expand with a total ban remaining in place.

From a public health perspective employment is very important. But there is no evidence that the ban is harming the development of the creative industry. Indeed it might wish to lead the way in continuing to innovate with special effects.

3. Is there sufficient clarity about the circumstances in which the exemption applies?

No. Looking at the existing evidence Cardiff and Vale University Health Board does not believe there is sufficient clarity in which the exemption might apply. The term 'artistic integrity' is open to wide interpretation.

Such variation in interpretation would make policing the proposed amendment difficult. Indeed in 2006 Local Government officers successfully argued that having to police and judge upon merits of 'artistic integrity' was beyond their competence and that of any other regulatory body¹. This was supported by the Chartered Institute of Environmental Health (CIHE)²

"The exemption does not apply to performers during rehearsals". TV and film may take several 'takes' of a scene which would not be classed as rehearsals. The exposure to second hand smoke would therefore be greater than the duration of the completed scene, thus creating greater exposure to second hand smoke for performers and production staff than the amendment suggests.

The ability to ensure that no children and no public watch the 'final non rehearsal take' would be very difficult.

4. Do the conditions offer adequate protection to other performers, production staff and members of the public?

No. The dangerous effects of second hand smoke have been extensively documented³. Consequently any conditions enabling smoking will not offer

¹ The Stage News, (2006). Wales set to ban smoking on the stage. Available online at: <http://www.thestage.co.uk/news/newsstory.php/15143/wales-to-set-to-ban-smoking-on-stage>

² Consultation The Smoke-Free Premises etc. (Wales) (Amendment) Regulations 2012. Available online at: <http://wales.gov.uk/consultations/healthsocialcare/smoke/?lang=en>

³ Department of Health, 2004. Scientific Committee on Tobacco and Health (SCOTH): Secondhand smoke: Review of evidence since 1998. Available online at: http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4101475.pdf

adequate protection to any actor smoking. Additionally any other actors or production staff in the vicinity of the 'smoker' will suffer the same consequences of tobacco inhalation.

The Department of Health states in its review of evidence that no infant, child or adult should be exposed to second hand smoke⁴. Any relaxation of the Smokefree law in Wales would contradict this guidance. The comprehensive review also states that second hand smoke represents a substantial health hazard and therefore if this exemption is granted actors and production staff would be exposed. Inhalation of second hand smoke can cause a direct increase in risk of both lung cancer and heart disease⁵. This exemption is in contrast to the Welsh Government's own Tobacco Control Action plan which has a core aim of promoting Smokefree environments in the workplace, the home and the car⁶.

Whilst the conditions state that smoking will not take place when children are present, existing evidence states that dangerous chemicals can linger in the area where tobacco has been smoked and that no ventilation system is adequate to remove the risk associated with inhaling second hand smoke⁷. Exposure to second hand smoke during pregnancy can have adverse affects upon the health of the mother and child⁸. This exemption could impact upon actors or production staff who are in the early weeks pregnancy but do not know that they are pregnant.

Smoking is highly addictive⁹. By including this exemption ex-smoking actors face the possibility of relapse if 'artistic integrity' states that the production they are involved in should portray smoking. Indeed non-smoker may become smokers.

5. Might there be any unintended consequences of introducing this exemption?

Yes. The amendment will undermine the very significant progress Wales has made in decreasing tobacco usage and tackling associated ill health. It gives mixed messages and we know that consistent messages are vital for sustained behaviour change.

⁴ Ibid

⁵ WHO, 2003. Framework Convention on Tobacco Control. Available online at: http://www.who.int/tobacco/framework/WHO_FCTC_english.pdf

⁶ Welsh Government, Tobacco Control Action Plan for Wales, 2012. Available online at: <http://wales.gov.uk/docs/phhs/publications/120202planen.pdf>

⁷ A report on passive smoking by the Tobacco Advisory Group of the Royal College of Physicians, July 2005. Going smoke-free: The medical case for clean air in the home, at work and in public places. Available online at: <http://smokefreeengland.co.uk/files/going-smokefree.pdf>

⁸ Ibid

⁹ British Medical Journal, 2003. Treating nicotine addiction. Available online at: <http://www.bmj.com/content/327/7428/1394>

A systematic review (2005) on the nature and effect of smoking in the movies on adolescents and others concluded that there is a consistent chain of evidence that smoking in the movies leads adolescents to hold more pro-tobacco attitudes and beliefs, which is consistent with the observed dose-response relationship between exposure to smoking in the movies and initiation of adolescent smoking¹⁰.

Individual actors who need work may feel co-erced to smoke cigarettes for the sake of 'actors' integrity – especially young or less famous actors. A role that involves smoking could be their initiation into a lifelong smoking habit.

6. What health policy consideration are relevant to this amendment?

Our smoke free legislation is absolutely key in reducing harm from tobacco. Currently our leadership and message in Wales is strong, clear and unambiguous. It is having its intended effect with tobacco smoking reducing in prevalence.

Reducing health inequality is also one of our key ambitions in Wales. Tobacco accounts for a significant proportion of ill health due to that health inequality.

Consistent messaging for behaviour change is critical and this amendment has the potential to weaken and set back all that has been achieved to date.

Conclusion

Smoking causes serious harm to health, it is one of the biggest causes of preventable ill health and premature death. We are making progress on reducing harm from tobacco in Wales. This amendment weakens our message, our ambition and our ability to improve the health of our population.

Cardiff and Vale University Health Board have taken considerable steps in prioritising tobacco control as one of its key action for 2012-2013. Key preventative programme include a Children and Young People's Smoking Preventative Programme which aims to ban smoking in all community based playgrounds across Cardiff and Vale of Glamorgan, targeting Communities First and areas of deprivation in the first instance. SmokeBugs! (funded by Welsh Government) has been implemented in primary schools and teacher training provided to deliver the resource. We are working with local Housing Associations and Local Authorities to reduce the danger of passive smoking in the home with Tenant Agreements and Handbooks promoting 'smoke free homes'.

¹⁰ Charlesworth A. and Glantz S. A (2005) Smoking in the Movies Increases Adolescent Smoking: A Review Paediatric

Cardiff and Vale University Health Board aims to be a public health 'exemplar' and tobacco is a key priority for action, fundamental to improving health of the population. We are working to provide highly consistent messages to support behavioural change.

Appendix

The proposed Smoke-Free Premises etc. (Wales) (Amendment) Regulation 2012 (2nd the proposed Regulations”) will amend The Smoke-free Premises etc. (Wales) Regulation 2007 (2nd the Smoke-Free Regulations 2007”) by creating an exemption from the smoke-free requirements for performers provided certain conditions are satisfied. This exemption will apply only where; i) the performance is given in connection with the making of a film or television programme; ii) the artistic integrity of the performance makes it appropriate for the performer to smoke; iii) there are no member of the public viewing the making of the television programme of film and, iv) no children are present in the part of the premises which are not smoke-free and in which the performer would be smoking.

The exemption is a personal exemption afforded to the individual performer. It makes the part of the premises in which they are performing not smoke-free on relation to them. The exemption does not apply to persons who are present during the performance. It also does not apply to any performances given during rehearsals.

Since the Smoke-Free Regulations 2007 came into force, it is understood that Welsh Government has received an increasing number of representations from the creative industries calling for an exemption to the smoke-free requirements for performers. Several successful TV programme have been filmed in Wales and, with the growth of the BBC Wales Drama as a centre of excellence and the opening of the new film studios, it is hoped that more programme making will come to Wales. It has been argued that in order for programme makers to portray a level of authenticity that audiences would expect, particularly in a period drama where smoking was commonplace, an exemption to the Regulations may be needed.

The Welsh Government conducted a shortened 6 week consultation on the draft Regulations from 3rd February 2012. The consultation asked a number of specific questions on the regulatory proposal presented and also asked for feedback from stakeholders on the consultation-stage impact assessments that were published as part of the consultation document.

A total of 48 responses were received to the consultation from a wide variety of stakeholder. With respect to question (1), 75% of respondents were not in support of this exemption with only 25% (most of who were from the creative industries) supporting this. Of those respondents who opposed, most were health professionals, charities and local authorities.



**The Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012
Consultation Response**

Author:

Carol Owen, Principal Health Promotion Specialist , Public Health Wales
Daniel Clayton, Public Health Practitioner, Public Health Wales
Bethan Jenkins, Senior Public Health Practitioner, Public Health Wales.

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Review Date: N/A

Purpose and Summary of Document:

The Enterprise and Business Sub-Committee and the Health and Social Care Sub-Committee (NAfW) requested evidence to support a discussion relating to making an amendment c

A previous consultation (2012) invited comments on the proposed Regulations to amend the Smoke- Free Premises etc. (Wales) Regulations 2007.

This is the second consultation relating to this Amendment to the Regulations.

Public Health Wales concerns include

1. The impact that role models (actors not characters) who smoke in films will have on 'normalising' smoking amongst young people.
2. The potential negative impact that this amendment will have on people who are trying to quit
3. The harmful effects of second hand smoke in enclosed/semi

enclosed premises.

Work Plan reference: Smoking Prevention and Cessation PLA 2012/13

1 Introduction

This paper aims to provide the Enterprise and Business Sub-Committee and the Health and Social Care Sub-Committee (NAfW) with Public Health Wales' response to their request to evidence to inform an agreement on the content of a joint report to lay before the Assembly, to inform the debate on the Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012.

1.1 Background

The proposed Smoke-Free Premises etc. (Wales) (Amendment) Regulations 2012 ("the proposed Regulations") will amend The Smoke-free Premises etc. (Wales) Regulations 2007 ("the Smoke-Free Regulations 2007") by creating an exemption from the smoke-free requirements for performers provided certain conditions are satisfied. This exemption will apply only where i) the performance is given in connection with the making of a film or television programme; ii) the artistic integrity of the performance makes it appropriate for the performer to smoke; iii) there are no members of the public viewing the making of the television programme or film; and, iv) no children are present in the part of the premises which are not smoke-free and in which the performer would be smoking.¹

The exemption is a personal exemption afforded to the individual performer. It makes the part of the premises in which they are performing not smoke-free in relation to them. The exemption does not apply to persons who are present during the performance. It also does not apply to performances given during rehearsals.

Since the Smoke-Free Regulations 2007 came into force, it seems that Welsh Government has received an increasing number of representations from the creative industries calling for an exemption to the smoke-free requirements for performers. Several successful TV programmes have been filmed in Wales and, with the growth of BBC Wales Drama as a centre of

¹Welsh Government (2012) Explanatory Memorandum to THE SMOKE-FREE PREMISES ETC. (WALES) (AMENDMENT) REGULATIONS 2012

excellence and the opening of the new Roath Lock Studios, it is hoped that more programme making will come to Wales. It appears however that certain productions have run into difficulties due to being unable to film actors smoking. The programme makers wish to portray a level of authenticity that audiences would expect, and many period dramas are set in times when smoking was commonplace.¹

The Welsh Government conducted a shortened 6 week consultation on the draft Regulations from 3rd February 2012. The consultation asked a number of specific questions on the regulatory proposal presented and also asked for feedback from stakeholders on the consultation-stage impact assessments that were published as part of the consultation document

A total of 48 responses were received to the consultation from a wide variety of stakeholders. With respect to question (1), 25% of respondents were in favour of an exemption most of who were from the creative industries. Of those respondents who opposed, most were health professionals, charities and local authorities

This is the second consultation.

1.2 Purpose

The paper will aim to provide comprehensive answers, where evidence is available, to questions outlined in consultation correspondence. Questions are as follows;

- Is there a commercial need for this amendment to exempt performers from smoke-free requirements?
- Will this amendment achieve its aim of supporting the television and film industry in Wales?
- Is there sufficient clarity about the circumstances in which the exemption applies?
- Do the conditions offer adequate protection to other performers, production staff and members of the public?
- Might there be any unintended consequences of introducing this exemption?
- What health policy considerations are relevant to this amendment?

1.3 Consultation Questions

Is there a commercial need for this amendment to exempt performers from smoke-free requirements?

There appears to be little available evidence to support the commercial need for the amendment.

The Health Act 2006 which applies to England and Wales ("the Act"); Section 2 of the Act prohibits smoking in enclosed and substantially enclosed premises open to the public and/or used as a place of work, thus making those premises "smoke-free". The policy aim of the legislation is to protect the public and workers from exposure to the harmful effects of second-hand smoke. Smoking is not banned in film making, just smoking in enclosed premises.

Since the ban in 2007 Wales has been successful in attracting several long running dramas. Casualty is one example. Prior to relocating the drama to Cardiff the BBC announced "The new location for Casualty is dependent on further value for money evaluations, ensuring maximum benefit for licence payers"² It must be assumed that filming in Wales is 'value for money' as Casualty relocated here in 2011 although the economic evaluation is not readily available.

Welsh Government have also reported growth in Creative Industries in Wales between 2005-9 (Smoke Free legislation introduced 2nd April 2007)

There is also an argument that the advantages of filming in Wales outweigh the perceived disadvantage of not being permitted to smoke in enclosed or partially enclosed premises. It appears that the facilities in Cardiff make the production a lot easier³

A systematic review (2005) on the nature and effect of smoking in the movies on adolescents and others concluded that there is a consistent chain of evidence that smoking in the movies leads adolescents to hold more pro-tobacco attitudes and beliefs, which is consistent with the observed dose-response relationship between exposure to smoking in the movies and initiation of adolescent smoking.⁴

²BBC News (2009) <http://news.bbc.co.uk/1/hi/wales/>

³Wales Online (2012) <http://www.walesonline.co.uk/showbiz-and-lifestyle/showbiz/2012/07/07/casualtyffar-easier-to-film-in-wales-says-show-producer-91466-31346980/#ixzz2HDeVMBvo>

⁴ Charlesworth A. and Glantz S. A (2005) Smoking in the Movies Increases Adolescent Smoking: A Review [Pediatric](#)

There is also an argument that the film industry's perception of the audience expectation regarding authenticity may be flawed. It is impossible to argue the business case for the exemption without knowing the impact of not televising individuals smoking has on the business. Whilst there is stark differences between the Hospitality Industry and Performing Arts one could argue that prior to the ban in the Republic of Ireland in 2004, that the Irish 'audience' expected smoke filled pubs to be part and parcel of authentic Irish Pub life, however the ban did not have the negative impact on business that was expected. In a study (pre and post ban) that evaluated the impact the ban had on staffing levels, customer numbers and smoking rates in a sample of 38 public houses in Dublin, There was a decrease (8.82%) in average staff levels while customer numbers increased by 11% and there was a dramatic reduction in numbers smoking on a visit to a pub (77.8%)⁵.

Will this amendment achieve its aim of supporting the television and film industry in Wales?

Welsh Government consultation documents state "The Wales Screen Commission estimate that the value to the Welsh economy of the productions that have been filmed in Wales is around £15-20 million per year. The creation of an exemption for performers within the 2007 Smoke-Free Regulations **could** therefore benefit the Welsh economy by **possibly** bringing more productions to Wales."

Should public health be compromised for an argument founded on 'could' and 'possibly'?

Is there sufficient clarity about the circumstances in which the exemption applies?

Looking at the existing evidence Public Health Wales does not believe there is sufficient clarity in which the exemption might apply. The term 'artistic integrity' is vague and, it could be argued, open to interpretation and possibly abuse.

⁵ **World Health Organisation (2006) Business as usual for smoke-free places** Bulletin of the World Health Organization 84(12) 921-1000

In 2006 Local Government officers successfully argued that having to police and judge upon the merits of 'artistic integrity' was beyond their competence and that of any other regulatory body⁶

In 2012, in response to public consultation about the proposed exemption, The Chartered Institute of Environmental Health (CIEH) Wales put forward the argument that 'artistic integrity' is a subjective judgement which could be a cause of disagreement between enforcement officers and film and television producers and that such disagreements could lead to legal challenge and action⁷.

"The exemption does not apply to performers during rehearsals". TV and film may take several 'takes' of a scene which would not be classed as rehearsals. The exposure to second hand smoke would therefore be greater than the duration of the completed scene, thus creating greater exposure to second hand smoke for performers and production staff than the amendment suggests.

Do the conditions offer adequate protection to other performers, production staff and members of the public?

The dangerous effects of second hand smoke have been extensively documented.⁸ Consequently it is difficult to argue that any conditions offer adequate protection because any actor smoking due to 'artistic integrity' will suffer the consequences of tobacco smoke inhalation. Additionally any other actor or production staff in the vicinity of the 'smoker' will suffer the same consequences of tobacco smoke inhalation.

The Department of Health states in its review of evidence that no infant, child or adult should be exposed to second hand smoke⁹. Any relaxation of the Smokefree law in Wales would contradict this guidance. The comprehensive review also states that second hand smoke represents a substantial health hazard and therefore if this exemption is granted actors and production staff would be exposed. Inhalation of second hand smoke can cause a direct increase in risk of both lung cancer and heart disease.¹⁰ This exemption is in contrast to the Welsh Government's own Tobacco

⁶ The Stage News, (2006). Wales set to ban smoking on the stage. Available online at: <http://www.thestage.co.uk/news/newsstory.php/15143/wales-set-to-ban-smoking-on-stage>

⁷ Consultation The Smoke-Free Premises etc. (Wales) (Amendment) Regulations 2012 Available online at:

<http://wales.gov.uk/consultations/healthsocialcare/smoke/?lang=en>

⁸ Department of Health, 2004. Scientific Committee on Tobacco and Health (SCOTH): Secondhand smoke: Review of evidence since 1998. Available online at: http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4101475.pdf

⁹ Ibid.

¹⁰ WHO, 2003. Framework Convention on Tobacco Control. Available online at: http://www.who.int/tobacco/framework/WHO_FCTC_english.pdf

Control Action plan which has a core aim of promoting Smokefree environments in the workplace, the home and the car.¹¹ⁱ

Whilst the conditions state that smoking will not take place when children are present, existing evidence states that dangerous chemicals can linger in the area where tobacco has been smoked and that no ventilation system is adequate to remove the risk associated with inhaling second hand smoke.¹² Exposure to second hand smoke during pregnancy can have adverse affects upon the health of the mother and child¹³. This exemption could impact upon actors or production staff who are in the early weeks of pregnancy **but do not yet know** that they are pregnant.

Smoking is highly addictive¹⁴. By including this exemption ex-smoking actors face the possibility of relapse if 'artistic integrity' states that the production they are involved in should portray smoking.

Might there be any unintended consequences of introducing this exemption?

Individual actors who need work may feel co-erced to smoke cigarettes for the sake of 'actors' integrity' – especially young or less famous actors. A role that involves smoking could be their initiation into a lifelong smoking habit.

1.4 Conclusion

Public Health Wales welcomed the ban on smoking in public places (2007) and any amendment to enable exemptions is viewed as being unhelpful to reaching Welsh Government's ambitious target of reducing smoking prevalence in Wales to 16% by 2020. Public Health Wales concerns primarily focus on 1) the impact role models could have on young people. The evidence tells us that smoking in films is associated with increased pro-tobacco attitudes and beliefs amongst adolescents and others⁴. 2) The harmful effects of second hand smoke are also well documented, as is the cost to the NHS. 3) It is also of concern that images of individuals smoking in films may have a negative impact on individuals who are trying to quit.

¹¹ Welsh Government, Tobacco Control Action Plan for Wales, 2012. Available online at: <http://wales.gov.uk/docs/phhs/publications/120202planen.pdf>

¹² Tobacco Advisory Group of the Royal College of Physicians, July 2005. Going smoke-free: The medical case for clean air in the home, at work and in public places. A report on passive smoking by the. Available online at: <http://www.smokefreeengland.co.uk/files/going-smokefree.pdf>

¹³ Ibid

¹⁴ British Medical Journal, 2003. Treating nicotine addiction. Available online at: <http://www.bmj.com/content/327/7428/1394>

Public Health Wales does not support the proposal an amendment to the Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012.