

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

Merit Scrutiny point 1: The Welsh Government is asked to set out how it considers that these regulations are compliant with Article 8 of the ECHR.

1. The Committee has asked the Welsh Government to set out how the change in law is justified on the grounds of public interest, proportionate to the public interest aim pursued and done in accordance with domestic and international law and with legal certainty. In particular the Committee has identified the following:
 - *The Regulations remove exclusions for certain types of work activities from the assessment of whether a dwelling is a workplace for the purposes of section 7 of the Public Health (Wales) Act 2017 (“the 2017 Act”). The effect of removing these exclusions is that all types of work activities will be included in the assessment of whether a dwelling is a workplace and therefore more dwellings will be required to be smoke free.*
 - *The Regulations provide that privately owned vehicles are to be smoke-free when a child is in the vehicle.*
 - *In both of these situations, the Regulations affect how people conduct themselves in their privately owned property, whether this be their own home or their vehicle.*
2. A very thorough assessment of provisions contained within these Regulations has taken place to ensure they are compatible with the European Convention on Human Rights (ECHR) and the United Nations Convention on the Rights of the Child (UNCRC). In view of the Committee’s comments, the Welsh Government will amend the Explanatory Memorandum to reflect this.

Merit Scrutiny point 2: The Committee would be grateful if the Welsh Government would confirm that it intends to bring the provisions referred to above into force on or before 1 March 2021.

3. As noted by the Committee, a Commencement Order was made on 25 September 2020. This Order commenced the regulation making provisions within the Public Health (Wales) Act 2017 (“the 2017 Act”) which enabled the Regulations to be laid. These provisions came into force on 29 September 2020.
4. Subject to the outcome of the Plenary debate (scheduled to be held on 20 October 2020), it is intended that a second Commencement Order will be made. This Order will commence the remaining provisions in Chapter 1 of Part 3 (and related Schedules) of the 2017 Act on 1 March 2021. This would mean that the provisions around the new smoke-free regime within the 2017 Act could operate substantively from 1 March 2021, alongside the Regulations.