

*Draft Order laid before the National Assembly for Wales under sections 3(1), (5) and (6) and 79(3) and (4) of the Health Act 2006, for approval by resolution of the National Assembly for Wales*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2012 No. (W.)**

**PUBLIC HEALTH, WALES**

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

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend The Smoke-free Premises etc. (Wales) Regulations 2007 (S.I. 2007/787 (W.68)) (“the Smoke Free Regulations”).

Regulation 2(3) of these Regulations inserts a new regulation 3A into the Smoke Free Regulations. Provided that the conditions in regulation 3A(2) are satisfied, regulation 3A(1) provides a personal exemption from the smoke free requirements in section 2 of the Health Act 2006 and the Smoke Free Regulations for a person taking part in a performance given in connection with the making of a film or television programme where the artistic integrity of the performance makes it appropriate for that person to smoke. The exemption afforded to the individual performer does not apply to other persons who are present during the performance. The exemption does not apply to performers during rehearsals.

The conditions in regulation 3A(2) are that no children are present in the part of the premises where a person would be smoking and that there are no members of the public viewing the making of the television programme or film.

**2012 No. (W.)**

**PUBLIC HEALTH, WALES**

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

*Made*

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*Coming into force*

*17 October 2012*

The Welsh Ministers, in exercise of the powers conferred by sections 3(1), (5) and (6) and 79(3) and (4) of the Health Act 2006<sup>(1)</sup> make the following Regulations, a draft of which was laid before and approved by resolution of the National Assembly for Wales in accordance with section 79(4) of that Act.

**Title and commencement**

1. The title of these Regulations is The Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012 and they come into force on 17 October 2012.

**Amendment to the Smoke-free Premises etc  
(Wales) Regulations 2007**

2.—(1) The Smoke-free Premises etc (Wales) Regulations 2007<sup>(2)</sup> are amended as follows.

(2) In regulation 1(3) (Title, commencement, application and interpretation) after the definition of “care home” insert—

““child” (“*plentyn*”) means a person under the age of 18;”.

(3) After regulation 3 (Exemptions for smoke free premises) insert the following regulation—

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(1) 2006 c.28. The functions of the National Assembly for Wales as the “appropriate national authority” under the Act were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c.32). Paragraph 34 of Schedule 11 to the Government of Wales Act 2006 applies and makes the exercise of powers under section 3 of the Health Act 2006 subject to the affirmative resolution procedure.

(2) S.I. 2007/787 (W.68).

### **“Exemptions for Performers**

**3A.**—(1) Where the artistic integrity of a performance given in connection with the making of a film or television programme makes it appropriate for a person who is taking part in that performance to smoke, the part of the premises in which that person performs is not smoke free in relation to that person during his or her performance provided the conditions in paragraph (2) are met.

(2) The conditions referred to in paragraph (1) are that—

- (a) no child is present in the part of the premises which is not smoke free and in which that person is performing; and
- (b) there are no members of the public viewing the performance.”

*[Name]*

Minister for Health and Social Services, one of the  
Welsh Ministers

Date