

PUBLIC HEALTH (WALES) BILL – STAGE 3 GOVERNMENT AMENDMENTS

This table provides information about the amendments tabled in the name of Rebecca Evans AM on 27 April 2017.

No.	GOVERNMENT AMENDMENT	GWELLIANT Y LLYWODRAETH	PURPOSE AND EFFECT
5.	Section 1, page 1, line 15, after ‘places,’ insert ‘outdoor care settings for children.’	Adran 1, tudalen 1, llinell 16, ar ôl ‘cyhoeddus,’ mewnosoder ‘mewn lleoliadau gofal awyr agored i blant.’	<p>The purpose of this amendment is to insert additional wording into the overview section of the Bill.</p> <p>The effect of the amendment is to reflect amendment 8, which seeks to insert a new section into the Bill in relation to smoking in outdoor care settings for children, within the overview section summarising the main provisions in the Bill.</p>
6.	<p>Section 4, page 3, after line 20, insert—</p> <p>‘() A person who controls or is concerned in the management of premises within section [<i>New section inserted by amendment 8</i>] (registered day care premises) that are smoke free by virtue of section [<i>New section inserted by amendment 8</i>](3) must take reasonable steps to cause a person smoking there to stop smoking.</p> <p>() 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 [<i>Third subsection inserted by this amendment</i>] to stop smoking.</p> <p>() Premises are within this section if—</p> <p>(a) they form part of premises that are the usual place of residence of the person referred to in subsection (<i>Second subsection inserted by this amendment</i>), and</p>	<p>Adran 4, tudalen 3, ar ôl llinell 22, mewnosoder—</p> <p>‘() Rhaid i berson a chanddo reolaeth dros fangre, neu sy’n ymwneud â rheoli mangre, o fewn adran [<i>Adran newydd a fewnosodir gan welliant 8</i>](3) (mangreoedd gofal dydd cofrestredig) sy’n ddi-fwg yn rhinwedd adran [<i>Adran newydd a fewnosodir gan welliant 8</i>] gymryd camau rhesymol i beri i berson sy’n ysmegu yno beidio ag ysmegu.</p> <p>() Rhaid i berson sydd wedi ei gofrestru i weithredu fel gwarchodwr plant o dan Ran 2 o Fesur Plant a Theuluoedd (Cymru) 2010 (mccc 1) gymryd camau rhesymol i beri i berson sy’n ysmegu mewn mangre o fewn is-adran (<i>y drydedd is-adran a fewnosodir gan y gwelliant hwn</i>) beidio ag ysmegu.</p> <p>() Mae mangre o fewn yr is-adran hon—</p> <p>(a) os yw’n rhan o fangre sy’n fan</p>	<p>The purpose of this amendment is to insert additional subsections to section 4 of the Bill.</p> <p>The effect of this amendment is to require those in charge of registered day care premises, the outdoor areas of which are made smoke free by amendment 8 to take reasonable steps to stop anyone smoking in the outdoor areas of those premises.</p> <p>The amendment also requires registered child minders working in their own homes to take reasonable steps to stop anyone smoking in the outdoor areas of those premises made smoke free by amendment 8.</p>

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	(b) they are smoke free by virtue of section [New section inserted by amendment 8].’.	preswyllo arferol y person cofrestredig y cyfeirir ato yn is-adran (yr ail is-adran a fewnosodir gan y gwelliant hwn), a (b) os yw’n ddi-fwg yn rhinwedd adran [Adran newydd a fewnosodir gan welliant 8].’.	
7.	Section 4, page 3, line 27, leave out ‘the duty in subsection (1)’ and insert ‘a duty in subsection (1), (first subsection inserted by amendment 6) or (second subsection inserted by amendment 6)’.	Adran 4, tudalen 3, llinell 29, hepgorer ‘â’r ddyletswydd yn is-adran (1)’ a mewnosoder ‘â dyletswydd yn is-adran (1), (yr is-adran gyntaf a fewnosodir gan welliant 6) neu (yr ail is-adran a fewnosodir gan welliant 6)’.	The purpose of this amendment is to replace cross-referencing in section 4 of the Bill. The effect of the amendment is to ensure correct cross-referencing which reflects the changes made by amendment 6. The amendment should be read alongside amendment 6.
8.	Page 4, after line 32, insert a new section— [] Outdoor care settings for children (1) Outdoor care settings in Wales are smoke free for the purposes of this Chapter. (2) Premises are an outdoor care setting so far as— (a) they are not enclosed or substantially enclosed, and (b) they are within subsection (3) or (4). (3) Premises are within this subsection if— (a) they are registered under Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1) (the “2010 Measure”) as being premises at which a person is authorised to	Tudalen 4, ar ôl llinell 38, mewnosoder adran newydd— [] Lleoliadau gofal awyr agored i blant (1) Mae lleoliadau gofal awyr agored yng Nghymru yn ddi-fwg at ddibenion y Bennod hon. (2) Mae mangre yn lleoliad gofal awyr agored i’r graddau— (a) nad yw’n gaeedig nac yn sylweddol gaeedig, a (b) y mae o fewn is-adran (3) neu (4). (3) Mae mangre o fewn yr is-adran hon—	The purpose of this amendment is to insert an additional section into the Chapter on smoking. The effect of this amendment is to make the outdoor areas of registered childcare settings in Wales smoke free, when the setting is being used for childcare. The amendment also defines the premises which are to be covered by the new section. In the case of a child minder working in his/her own home, the outdoor area is only smoke-free if one or more children are in the outdoor area.

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	<p>provide day care for children, or (b) they form part of premises that are so registered.</p> <p>(4) Premises are within this section if they form part of premises (the “domestic premises”) that are the usual place of residence of a person registered to act as a child minder under Part 2 of the 2010 Measure.</p> <p>(5) An outdoor care setting within subsection (3) is smoke free by virtue of this section only when day care for children is being provided— (a) in the outdoor care setting, or (b) in premises registered under Part 2 of the 2010 Measure (whether or not enclosed or substantially enclosed) of which the outdoor care setting forms part.</p> <p>(6) An outdoor care setting within subsection (4) is smoke free by virtue of this section only when— (a) the child minder is acting as a child minder in the domestic premises (whether or not in a part of them that is enclosed or substantially enclosed) for at least one child, and (b) that child or, as the case may be, at least one of those children is in the outdoor care setting.</p> <p>(7) For the purposes of this section, references to providing day care and acting as a child minder have the same meaning as in the 2010 Measure.</p> <p>(8) Premises are not to be treated as being within subsection (3) or (4) so far as they consist of the</p>	<p>(a) os yw wedi ei chofrestru o dan Ran 2 o Fesur Plant a Theuluoedd (Cymru) 2010 (mccc 1) (“Mesur 2010”) fel mangre y mae person wedi ei awdurdodi i ddarparu gofal dydd i blant ynddi, neu</p> <p>(b) os yw’n rhan o fangre sydd wedi ei chofrestru yn y modd hwnnw.</p> <p>(4) Mae mangre o fewn yr adran hon os yw’n rhan o fangre (y “mangre ddomestig”) sy’n fan preswyllo arferol person sydd wedi ei gofrestru i weithredu fel gwarchodwr plant o dan Ran 2 o Fesur 2010.</p> <p>(5) Nid yw lleoliad gofal awyr agored o fewn is-adran (3) yn ddi-fwg yn rhinwedd yr adran hon ond pan yw gofal dydd i blant yn cael ei ddarparu— (a) yn y lleoliad gofal awyr agored, neu (b) mewn mangre sydd wedi ei chofrestru o dan Ran 2 o Fesur 2010 (pa un a yw’n gaeedig neu’n sylweddol gaeedig ai peidio) y mae’r lleoliad gofal awyr agored yn rhan ohoni.</p> <p>(6) Nid yw lleoliad gofal awyr agored o fewn is-adran (4) yn ddi-fwg yn rhinwedd yr adran hon ond— (a) pan yw’r gwarchodwr plant yn</p>	

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	grounds of a school (for which see section 7 (school grounds)).’.	<p>gweithredu fel gwarchodwr plant yn y fangre ddomestig (pa un ai mewn rhan ohoni sy'n gaeedig neu'n sylweddol gaeedig ai peidio) ar gyfer o leiaf un plentyn, a</p> <p>(b) pan yw'r plentyn hwnnw neu, yn ôl y digwydd, o leiaf un o'r plant hynny yn y lleoliad gofal awyr agored.</p> <p>(7) At ddibenion yr adran hon, mae i'r cyfeiriadau at ddarparu gofal dydd a gweithredu fel gwarchodwr plant yr un ystyr ag ym Mesur 2010.</p> <p>(8) Nid yw mangre i gael ei thrin fel pe bai o fewn is-adran (3) neu (4) i'r graddau y mae'n dir ysgol (gweler adran 7 (tir ysgolion) am hyn).’.</p>	
9.	Section 10, page 6, line 27, leave out 'section 5, 6, 7, 8 or' and insert 'sections 5 to'.	Adran 10, tudalen 6, llinell 29, hepgorer 'adran 5, 6, 7, 8 neu' a mewnosoder 'adrannau 5 i'.	<p>The purpose of this amendment is to insert an additional cross-reference and replace a list of section numbers in section 10 with a range, in order to aid clarity.</p> <p>The effect of the amendment is to reflect amendment 8, which seeks to insert a new section into the Bill in relation to smoking in outdoor care settings for children, within the list of sections which already designate premises as being smoke free. The amendment also simplifies how cross-references are dealt with in this section, which aids clarity for the</p>

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10.	<p>Section 10, page 7, after line 7, insert—</p> <p>‘(7) Regulations under this section may not make provision in respect of premises used wholly or mainly as a dwelling; and to the extent that they make provision for premises used partly as a dwelling to be treated as smoke-free premises, regulations under this section must comply with section 11.’.</p>	<p>Adran 10, tudalen 7, ar ôl llinell 8, mewnosoder—</p> <p>‘(7) Ni chaiff rheoliadau o dan yr adran hon wneud darpariaeth mewn cysylltiad â mangre a ddefnyddir yn gyfan gwbl neu’n bennaf fel annedd; ac i’r graddau y maent yn gwneud darpariaeth i fangre a ddefnyddir yn rhannol fel annedd gael ei thrin fel mangre ddi-fwg, rhaid i reoliadau o dan yr adran hon gydymffurfio ag adran 11.’.</p>	<p>reader.</p> <p>The purpose of this amendment is to insert a new subsection into section 10 (Additional smoke-free premises).</p> <p>The effect of the amendment is to prevent premises used wholly or mainly as a dwelling from being made smoke-free in the future. It also provides that premises used partly as a dwelling can only be made smoke-free in the future if the conditions in section 11 are met.</p>
11.	<p>Section 11, page 7, line 9, leave out ‘to any extent’ and insert ‘partly’.</p>	<p>Adran 11, tudalen 7, llinell 10, hepgorer ‘i unrhyw raddau’ a mewnosoder ‘yn rhannol’.</p>	<p>The purpose of this amendment is to replace wording in section 11.</p> <p>The effect of this amendment is to clarify that section 11 deals with premises used partly as a dwelling. These can be made smoke-free in the future, but premises used wholly or mainly as a dwelling <u>cannot</u> be made smoke-free in the future.</p>
12.	<p>Section 11, page 7, line 11, leave out ‘this section’ and insert ‘the following requirements’.</p>	<p>Adran 11, tudalen 7, llinell 12, hepgorer ‘adran hon’ a mewnosoder ‘gofynion a ganlyn’.</p>	<p>The purpose of this amendment is to replace wording in section 11.</p> <p>The effect of the amendment is to make a minor technical change which aids understanding for readers of the provision. The amendment does not make a substantive change to the provision.</p>

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13.	Section 11, page 7, leave out line 21.	Adran 11, tudalen 7, hepgorer llinell 22.	<p>The purpose of this amendment is to remove wording from section 11.</p> <p>The effect of this amendment is to remove the limitation on the future designation of outside areas of premises which are used partly as dwellings. This is no longer needed as a result of amendments 6 and 8.</p>
14.	Section 11, page 7, line 23, leave out ‘, and only if a person under 18 is present in that part’.	Adran 11, tudalen 7, llinell 25, hepgorer ‘, a dim ond os yw person o dan 18 oed yn bresennol yn y rhan honno’.	<p>The purpose of this amendment is to remove wording from section 11.</p> <p>The effect of this amendment is to remove the limitation on the future designation of outside areas of premises which are used partly as dwellings. This is no longer needed as a result of amendments 6 and 8. It also provides consistency with amendment 13.</p>
15.	Section 15, page 9, line 28, after ‘is’, insert ‘authorised to act as’.	Adran 15, tudalen 9, llinell 31, hepgorer ‘yn’ a mewnosoder ‘wedi ei awdurdodi i weithredu fel’.	<p>The purpose of this amendment is to insert wording in section 15 (Enforcement authorities).</p> <p>The effect of this amendment is to make a minor technical change to aid understanding. The amendment does not make a substantive change to the provision.</p>
16.	Section 15, page 9, line 31, after ‘be’, insert ‘authorised to act as’.	Adran 15, tudalen 9, llinell 33, hepgorer ‘fod yn’ a mewnosoder ‘gael ei awdurdodi i weithredu fel’.	<p>The purpose of this amendment is to insert wording in section 15 (Enforcement authorities).</p> <p>The effect of this amendment is to make a minor technical change to aid understanding. The amendment does not make a substantive change to the provision.</p>
17.	Section 15, page 9, line 33, leave out ‘it is an enforcement authority’ and insert ‘, by virtue of this	Adran 15, tudalen 9, llinell 36, hepgorer ‘mae’n awdurdod gorfodi’ a mewnosoder ‘mae, yn rhinwedd yr adran hon, wedi ei awdurdodi i weithredu’.	The purpose of this amendment is to replace wording in section 15 (Enforcement authorities).

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	section, it is authorised to act’.		The effect of this amendment is to make a technical change for consistency with amendments 15 and 16. The amendment does not make a substantive change to the provision.
18.	Section 24, page 13, line 35, leave out ‘designated’ and insert ‘authorised to act’.	Adran 24, tudalen 13, llinell 37, hepgorer ‘ddynodi’ a mewnosoder ‘awdurdodi i weithredu’.	The purpose of this amendment is to replace wording in section 24 (Fixed penalty notices). The effect of this amendment is to make a technical change to aid understanding. The amendment does not make a substantive change to the provision.
19.	Section 24, page 14, line 4, leave out ‘designated’ and insert ‘authorised to act’.	Adran 24, tudalen 14, llinell 5, hepgorer ‘ddynodi’ a mewnosoder ‘awdurdodi i weithredu’.	The purpose of this amendment is to replace wording in section 24 (Fixed penalty notices). The effect of this amendment is to make a technical change to aid understanding. The amendment does not make a substantive change to the provision.
20.	Section 25, page 15, line 1, leave out ‘means a person, or description of person, specified in regulations under’ and insert ‘is to be interpreted in accordance with’.	Adran 25, tudalen 14, llinell 29, hepgorer ‘ystyr “awdurdod gorfodi” (“enforcement authority”) yw person, neu ddisgrifiad o berson, a bennir mewn rheoliadau o dan’ a mewnosoder ‘mae “awdurdod gorfodi” (“enforcement authority”) i gael ei ddehongli yn unol ag’.	The purpose of this amendment is to replace wording in section 25 (Interpretation of this Chapter). The effect of this amendment is to make a technical change as a result of naming the enforcement authorities for this Chapter on the face of the Bill rather than designating them in regulations.
21.	Section 28, page 18, line 28, after ‘application’, insert ‘(including, in the case of an application by a person who proposes to carry on a tobacco or nicotine business as described in subsection (2)(e), information relating to the nature of the arrangements concerned)’.	Adran 28, tudalen 18, llinell 24, ar ôl ‘cais’, mewnosoder ‘(gan gynnwys, yn achos cais gan berson sy’n bwriadu cynnal busnes tybaco neu nicotin fel y’i disgrifir yn is-adran (2)(e), wybodaeth sy’n ymwneud â natur y trefniadau o dan sylw)’.	The purpose of this amendment is to insert wording in section 28 (Application for entry in the register). The effect of the amendment is to amend section 28(3)(b). Section 28(2) sets out on the face of the Bill what information must be included in an application for entry onto the retail register. Section 28(3)(b) gives the Welsh Ministers a regulation making power to stipulate additional information that must be included

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			<p>in an application. The amendment makes it clear that regulations made by the Welsh Ministers under section 28(3)(b) may require information on the nature of the arrangements to be undertaken where an applicant intends to carry on a business which involves delivering tobacco or nicotine products to premises in Wales, or allows for “click and collect” type services where tobacco or nicotine products may be collected from premises in Wales.</p>
22.	<p>Section 60, page 34, after line 29, insert—</p> <p>‘() standards of competence relevant to performing a special procedure (including standards specified by reference to, among other things, qualifications or experience), or performing a special procedure upon a specified part of an individual’s body;’.</p>	<p>Adran 60, tudalen 34, ar ôl llinell 27, mewnosoder—</p> <p>‘() â safonau cymhwysedd sy’n berthnasol i roi triniaeth arbennig (gan gynnwys safonau a bennir drwy gyfeirio at, ymhlith pethau eraill, gymwysterau neu brofiad), neu roi triniaeth arbennig i ran benodedig o gorff unigolyn;’.</p>	<p>The purpose of this amendment is to insert an additional subsection in section 60.</p> <p>The effect of this amendment is to make clear that mandatory licensing conditions can make provision about standards of competence relevant to performing a special procedure on a specific part of an individual’s body, including by reference to qualifications or experience.</p>
23.	<p>Section 63, page 37, line 2, after ‘whether’, insert ‘, and, if so, to what extent,’.</p>	<p>Adran 63, tudalen 37, llinell 2, ar ôl ‘chodi’, mewnosoder ‘, ac os felly, i ba raddau,’.</p>	<p>The purpose of this amendment is to insert wording into section 63 (‘Discretion to grant application for special procedures licence’).</p> <p>The effect of this amendment is to make it clear that guidance issued by Welsh Ministers must assist a local authority to reach a decision as to whether, and, if so to what extent, an applicant’s fitness to perform a special procedure has been called into question as a result of their having a conviction for a relevant offence.</p>

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24.	Section 65, page 37, line 34, leave out ‘, in a material particular,’.		<p>The purpose of this amendment is to remove wording from section 65 (Revocation of special procedure licence).</p> <p>The effect of this amendment is to make a minor technical change which removes superfluous wording and therefore aids clarity. There is no need to amend the Welsh version of the Bill.</p>
25.	Section 72, page 43, line 4, after ‘maintain’, insert ‘and publish’.	Adran 72, tudalen 43, llinell 4, ar ôl ‘gynnal’, mewnosoder ‘a chyhoeddi’.	<p>The purpose of this amendment is to insert wording into section 72 (Duty to maintain register of special procedure licences and approved premises and vehicles).</p> <p>The effect of this amendment is to clarify that a local authority must maintain and publish its register of special procedure licences and approved premises and vehicles. The local authority would have to produce and issue its register, for example on its website, rather than merely making it open for inspection by the public at its offices.</p>
26.	Section 72, page 43, line 35, leave out subsection (5).	Adran 72, tudalen 43, llinell 35, hepgorer is-adran (5).	<p>The purpose of this amendment is to remove a subsection from section 72 (Duty to maintain register of special procedure licences and approved premises and vehicles).</p> <p>The effect of this amendment is to make a technical change to remove wording which is no longer required due to changes introduced by amendment 25.</p> <p>The amendment should be considered alongside amendment 25.</p>
27.	Section 110, page 68, after line 35, insert—	Adran 110, tudalen 68, ar ôl llinell 37, mewnosoder—	The purpose of this amendment is to insert an additional subsection in section 110 (Local toilets

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	'(c) collaboration between local authorities.'	'(c) cydweithredu rhwng awdurdodau lleol.'	strategies: preparation and review). The effect of this amendment is to require the guidance to be issued by Welsh Ministers on local toilet strategies to cover collaboration between local authorities.
28.	Schedule 1, page 75, line 13, leave out 'specified in regulations under section 15(1)' and insert 'authorised by virtue of section 15'.	Atodlen 1, tudalen 75, llinell 8, hepgorer 'a bennir mewn rheoliadau o dan adran 15(1)' a mewnosoder 'sydd wedi ei awdurdodi yn rhinwedd adran 15'.	The purpose of this amendment is to replace wording in paragraph 1 of Schedule 1 (Fixed penalties). The effect of this amendment is to make a technical change as a result of naming the enforcement authorities for Part 2 of the Bill on the face of the Bill rather than designating them in regulations.
29.	Schedule 1, page 77, line 20, leave out 'Where regulations under section 15 specify a local authority as an enforcement authority, the local' and insert 'An enforcement authority which is a local'.	Atodlen 1, tudalen 77, llinell 23, hepgorer 'Pan fo rheoliadau o dan adran 15 yn pennu awdurdod lleol yn awdurdod gorfodi, ni chaiff yr' a mewnosoder 'Ni chaiff awdurdod gorfodi sy'n'.	The purpose of this amendment is to replace wording in Schedule 1 (Fixed penalties). The effect of this amendment is to make a technical change as a result of naming the enforcement authorities for Part 2 of the Bill on the face of the Bill rather than designating them in regulations.