



Llywodraeth Cymru  
Welsh Government

# Welsh Government Integrated Impact Assessment Summary

**Title of proposal:**

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

**Department:**

**Health and Social Services**

**Cabinet Secretary/Minister responsible:**

**Vaughan Gething MS, Minister for Health and Social Services**

**Start Date:**

**28/08/20**

**Contact e-mail address:**

**adrian.parsons@gov.wales**

# What action is the Welsh Government considering and why?

According to the World Health Organisation (WHO), tobacco kills more than 8 million people a year worldwide, and is one of the biggest public health threats ever encountered. Both smoking and passive smoking are linked to a range of serious illnesses including cancers and heart disease. Tobacco smoking causes approximately 5,450 deaths each year in Wales, and costs the Welsh NHS an estimated £302 million per year.<sup>1</sup>

Reducing the health impacts of smoking is a recognised policy priority for the Welsh Government. Smoking remains one of the main causes of inequalities in health in Wales with smoking rates in the most deprived areas over double those of the least deprived areas.

Smoking remains one of the main causes of health inequalities, having been identified as a leading cause for the gap in mortality rates between the most and least deprived areas. Smoking prevalence in Wales is steadily decreasing. However, the smoking rate in the most deprived fifth remains more than double the rate in the least deprived fifth. For instance, in 2014-15, 29.2% of adults in the most deprived fifth reported smoking, compared to 12.0% in the least deprived fifth. Disability adjusted life years (DALYs) measure the impact of various risk factors on an individual's health. One DALY is equivalent to one lost year of 'healthy' life. Smoking is the largest risk factor for DALYs in Wales, contributing to 121,000 years of healthy life lost in 2017.<sup>2</sup>

Two-thirds of smokers started before the age of 18, and almost 40% started smoking regularly before the age of 16<sup>3</sup>. Encouraging young smokers to either quit or discouraging them from starting to smoke will not only help them to lead healthier lives but evidence shows that children who live with parents or siblings who smoke are three times more likely to become smokers themselves. Therefore a young person who is prevented from smoking or encouraged to quit smoking could have an impact on their children, thus increasing the chances of future generations becoming smoke-free.

The Smoke-free Premises and Vehicles (Wales) Regulations 2020 ("the 2020 Regulations") will make changes to the existing smoking ban established in 2007 and to introduce new elements needed to implement the provisions on smoke-free hospital grounds, school grounds, and public playgrounds in the Public Health (Wales) Act ("the 2017 Act")<sup>4</sup>. The 2020 Regulations complement the measures set out in our Tobacco Control Delivery Plan for Wales 2017-2020<sup>5</sup> to improve health and well-being in Wales, and to provide a greater emphasis on prevention in line with our national strategy *Prosperity for All*<sup>6</sup>.

The intended effect of the 2020 Regulations is to reduce exposure to second hand smoke and further denormalise smoking behaviour, particularly amongst children and young people.

The smoke emitted by cigarettes and exhaled by smokers contains more than 50 chemicals recognised as carcinogens, as well as many toxic irritant agents<sup>7</sup>. The consensus, is that there is no

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<sup>1</sup> Public Health Wales Observatory (2012) – 'Tobacco and health in Wales, 2012'  
<http://www.wales.nhs.uk/sitesplus/922/page/59800>

<sup>2</sup> <http://www.publichealthwalesobservatory.wales.nhs.uk/smoking-in-wales>

<sup>3</sup> Office for National Statistics. General Lifestyle Survey Overview: A report on the 2011 General Lifestyle Survey. 2013.  
<http://www.ons.gov.uk/ons/rel/ghs/general-lifestyle-survey/2011/rpt-chapter-1.html>

<sup>4</sup> <https://www.legislation.gov.uk/anaw/2017/2/contents/enacted>

<sup>5</sup> <https://gov.wales/tobacco-control-plan-wales-2017-2020>

<sup>6</sup> <https://gov.wales/prosperity-all-national-strategy#:~:text=Prosperity%20for%20All%3A%20the%20national%20strategy.%20This%20strategy,Programme%20for%20governm ent%20and.%20Government%20administration.%20First%20published%3A>

<sup>7</sup> <http://www.surgeongeneral.gov/library/reports/secondhandsmoke/fullreport.pdf>

safe level of exposure to second-hand smoke and, while some progress has been made in non-enclosed smoke-free environments through voluntary action, comprehensive legislation is required to make significant progress to protect public health.

The 2020 Regulations will also work with other legislation to contribute to the continuing decline in the uptake of smoking by children and young people. The 2020 Regulations will aim to ensure the further denormalisation of smoking by restricting smoking in more public places, particularly where children are likely to be present on a regular basis (such as school grounds and public playgrounds). This will reduce children's exposure to adult smoking behaviours in their everyday lives with the intention of making them less likely to grow up thinking that smoking is a normal or aspirational adult behaviour.

Prohibiting smoking in private vehicles carrying children under the age of 18 supports and promotes the following articles of the United Nations Convention on the Rights of the Child (UNCRC);

- Article 3 – the best interests of the child
- Article 24 - a child's right to the best possible health and protection in consideration of the dangers and risks of environmental pollution.

The provisions in the 2020 Regulations relating to hospital grounds are intended to promote behaviour change and support smoking cessation among smokers who use hospital services. The 2020 Regulations also remove the current exemption that allows designation of a room in which patients and residents of mental health units may smoke and replacing it with a time limited exemption that will expire 18 months after the 2020 Regulations come into force. Smoking prevalence among people with mental illness is substantially higher than the general population. Removing this exemption will bring the law in line with general hospital service users and will aim to address health inequalities for persons with mental health conditions. The 2020 Regulations also amend the provision of designated smoking rooms in adult care homes and adult hospices. The 2007 Regulations provided an exemption for adult care homes and adult hospices that permitted the manager of the premises to designate a room for smoking for use by those over 18 years of age. This exemption has been retained in the 2020 Regulations but with the additional condition that the designated smoking room is only for use by residents of the adult care home or adult hospice.

The 2020 Regulations will also remove the exemption that permits the designation of bedrooms where smoking is allowed in hotels, guesthouses, hostels, inns and members' clubs and replace it with a time limited exemption that will expire 12 months after the 2020 regulations come into force. A similar provision is provided for self-contained holiday or temporary accommodation (such as static caravans used for holiday rental or temporary purposes and cottages and chalets, and flats and apartments provided via short-term lets for holiday rental accommodation). The smoking ban is embedded in Wales to the extent that the current exemption is not widely used. Removing this designation would extend the workplace protection from the health harms of second hand smoke to all workers in such premises and support the Welsh Government's ultimate aim of a smoke-free society.

A Regulatory Impact Assessment has been completed for the Smoke-Free Premises and Vehicles (Wales) Regulations 2020.

# Conclusion

## 1. How have people most likely to be affected by the proposal been involved in developing it?

The development of the Smoke-free Premises and Vehicles (Wales) Regulations 2020 (“the 2020 Regulations”) has been supported by the Welsh Government’s Tobacco Control Strategic Board and the 2020 Regulations were subject to a full 12 week consultation in 2018<sup>8</sup>. A variety of stakeholders were engaged with and commented during the consultation process. Drafts of the impact assessments for Welsh Language, Children’s Rights or Equality and Human Rights were provided for stakeholders to comment upon.

The 2020 Regulations have been amended following feedback received during the consultation. The 2020 Regulations will support Cymraeg 2050 by the provision of bilingual information relating to the 2020 Regulations with all prescribed written warnings required to be bilingual. Guidance to support implementation of the 2020 Regulations will also be produced bilingually in Welsh and English.

Engagement with those affected by the 2020 Regulations is ongoing to address any issues or concerns in compliance with the new laws and guidance is in development with the input of key stakeholders to support implementation.

## 2. What are the most significant impacts, positive and negative?

**People** – The impact should be moderate and positive for people. The 2020 Regulations are intended to reduce exposure to second hand smoke and further denormalise smoking behaviour, particularly amongst children and young people. The smoke emitted by cigarettes and exhaled by smokers contains more than 50 chemicals recognised as carcinogens, as well as many toxic irritant agents<sup>9</sup>. The consensus, is that there is no safe level of exposure to second-hand smoke and, while some progress has been made in non-enclosed smoke-free environments through voluntary action, comprehensive legislation is required to make significant progress to protect public health.

The 2020 Regulations will also work with other legislation to contribute to the continuing decline in the uptake of smoking by children and young people. The 2020 Regulations will aim to ensure the further denormalisation of smoking by restricting smoking in more public places, particularly where children are likely to be present on a regular basis (such as school grounds and public playgrounds). This will reduce children’s exposure to adult smoking behaviours in their everyday lives with the intention of making them less likely to grow up thinking that smoking is a normal or aspirational adult behaviour. Removing designated smoking rooms inside certain premises will extend the workplace protection from the health harms of second hand smoke to all workers in such premises and support the Welsh Government’s ultimate aim of a smoke-free society.

**Culture** – No significant impact.

**Welsh Language** – No significant impact. The 2020 Regulations support Cymraeg 2050 by providing bilingual no smoking signs and guidance.

**Economy** – No significant impact. In addition to the health benefits, there are economic benefits in supporting smokers to quit and preventing young people from starting to smoke. A 2013 report produced by ASH Wales on the economic cost of smoking to Wales estimates the cost to employers

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<sup>8</sup> <https://gov.wales/smoke-free-premises-and-vehicles-wales-regulations-2018>

<sup>9</sup> <http://www.surgeongeneral.gov/library/reports/secondhandsmoke/fullreport.pdf>

is approximately £90m per annum<sup>10</sup>. This is from excess sickness absence and smoking breaks. These costs are in addition to the costs to the NHS.

**Environment** - The smoke emitted by cigarettes and exhaled by smokers contains more than 50 chemicals recognised as carcinogens, as well as many toxic irritant agents. Scientific evidence has been accumulated linking second hand smoke exposure to adverse health outcomes, including respiratory outcomes in children and adults, acute cardiovascular disease and lung cancer. Whilst most of this evidence is based on long term exposure, there are some studies that have reported effects following short term exposure to tobacco smoke, such as eye and respiratory irritation amongst non-smokers. Such studies show that even brief and short term exposure to second-hand smoke may generate significant adverse effects on the human respiratory system.

The consensus, therefore, is that there is no safe level of exposure to second-hand smoke and, while some progress has been made in non-enclosed smoke-free environments through voluntary action, there are suggestions that comprehensive legislation is the only way to make significant progress to protect public health. *Prosperity for All*<sup>11</sup>, our National Strategy commits us to building healthier communities and better environments. Clean air has a central role in creating the right conditions for better health and well-being in Wales. Reducing exposure to the health harms from second-hand smoke, and also smoking related litter is part of creating a better environment in Wales.

### 3. In light of the impacts identified, how will the proposal:

Smoking remains one of the main causes of health inequalities, having been identified as a leading cause for the gap in mortality rates between the most and least deprived areas. Smoking prevalence in Wales is steadily decreasing. However, the smoking rate in the most deprived fifth remains more than double the rate in the least deprived fifth. For instance, in 2014-15, 29.2% of adults in the most deprived fifth reported smoking, compared to 12.0% in the least deprived fifth. Disability adjusted life years (DALYs) measure the impact of various risk factors on an individual's health. One DALY is equivalent to one lost year of 'healthy' life. Smoking is the largest risk factor for DALYs in Wales, contributing to 121,000 years of healthy life lost in 2017.<sup>12</sup>

Two-thirds of smokers started before the age of 18, and almost 40% started smoking regularly before the age of 16<sup>3</sup>. Encouraging young smokers to either quit or discouraging them from starting to smoke will not only help them to lead healthier lives but evidence shows that children who live with parents or siblings who smoke are three times more likely to become smokers themselves. Therefore a young person who is prevented from smoking or encouraged to quit smoking could have an impact on their children, thus increasing the chances of future generations becoming smoke-free.

In addition to the health benefits, there are economic benefits in preventing young people from starting to smoke or encouraging young smokers to quit. A 2013 report produced by ASH Wales on the economic cost of smoking to Wales estimates the cost to employers is approximately £90m per annum. This is from excess sickness absence and smoking breaks. These costs are in addition to the costs to the NHS.

We are engaging with stakeholders to develop options to mitigate any negative impacts.

### 4. How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

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<sup>10</sup> ASH Wales and BHF Cymru (2013). The economic cost of smoking to Wales: a review of existing evidence.

<sup>11</sup> <https://gov.wales/prosperity-all-national-strategy#:~:text=Prosperity%20for%20All%3A%20the%20national%20strategy.%20This%20strategy,Programme%20for%20government%20and.%20Government%20administration.%20First%20published%3A>

<sup>12</sup> <http://www.publichealthwalesobservatory.wales.nhs.uk/smoking-in-wales>

As the provisions in the Public Health (Wales) Act 2017<sup>13</sup> and the 2020 Regulations will be implemented at the same time, a review of this smoking legislation will take place three years after implementation to establish the actual costs and benefits and also whether it is achieving its desired effects.

The impact from the 2020 Regulations, as well as the 2017 Act will be monitored as part of wider health surveillance on smoking behaviours in the National Survey for Wales. However, it will be difficult to fully attribute certain population level trends (as may be identified through this type of data) to the effects of the legislation. Whilst the provisions seek to make a general contribution towards reducing smoking rates and uptake, particularly among children and young people by further restricting the visibility of smoking, it would not be possible for such a trend to be attributed solely to the legislation. This is because other areas of legislation such as the introduction of age restrictions on the sale of nicotine products, standardised packaging for tobacco products, and the Tobacco and Related Products Regulations 2016, which transpose the EU Tobacco Products Directive will also be having an effect, alongside other societal influences.

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<sup>13</sup> <https://www.legislation.gov.uk/anaw/2017/2/contents/enacted>