

---

WELSH STATUTORY INSTRUMENTS

---

**2015 No. 1363 (W. 133)**

**PUBLIC HEALTH, WALES**

**The Smoke-free Premises etc. (Wales)  
(Amendment) Regulations 2015**

*Made* - - - - 2 June 2015  
*Coming into force* - - 1 October 2015

The Welsh Ministers, in exercise of the powers conferred by sections 5, 8(3), 9(1A), 10(1) and (2), and paragraph 4 of Schedule 1 to the Health Act 2006<sup>(1)</sup>, make the following Regulations, a draft of which was laid before the National Assembly for Wales in accordance with section 79(4A) of that Act.

**Title, commencement, application and interpretation**

1.—(1) The title of these Regulations is the Smoke-free Premises etc. (Wales) (Amendment) Regulations 2015 and they come into force on 1 October 2015.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations—

“the principal Regulations” (“y prif Reoliadau”) means The Smoke-free Premises etc (Wales) Regulations 2007<sup>(2)</sup>.

**Amendment of the principal Regulations**

2.—(1) In regulation 1(3) of the principal Regulations (interpretation)—

(a) in the appropriate place, insert the following definitions—

““caravan” (“carafán”) means a trailer which is designed for road use and provides mobile living accommodation;”;

““motor caravan” (“carafán modur”) means a motor vehicle which is constructed or adapted for the carriage of passengers and their effects and which contains, as permanently installed equipment, the facilities which are reasonably necessary for enabling the vehicle to provide mobile living accommodation for its users;”;

---

(1) 2006 c.28. Sections 5, 9, 10(1) and 79 were amended by section 95 of the Children and Families Act 2014 (c.6). As to the meaning of “appropriate national authority” see section 82(1).  
(2) S.I. 2007/787 (W.68).

““road” (“ffordd”) has the same meaning as in section 192(1) of the Road Traffic Act 1988(3)

(2) Following regulation 4 of the principal Regulations (smoke-free vehicles) insert the following

**“Private vehicles with children present**

**4A.**—(1) Subject to the following paragraphs of this regulation, a private vehicle or any part of a private vehicle is smoke-free if—

- (a) it is enclosed,
- (b) there is more than one person present in the vehicle, and
- (c) a person under the age of 18 is present in the vehicle.

(2) A vehicle or part of a vehicle is enclosed for the purposes of paragraph (1) where it has doors or windows which may be opened but it is not enclosed unless it is wholly or partly covered by a roof.

(3) In this regulation “roof” does not include any roof which is completely stowed away so that it does not cover any part of a compartment in which persons may travel.

(4) This regulation applies to all vehicles other than—

- (a) a caravan or motor caravan that is stationary and not on a road;
- (b) a caravan or motor caravan that is stationary, is on a road and is being used as living accommodation;
- (c) aircraft;
- (d) ships or hovercraft in respect of which regulations could be made under section 85 of the Merchant Shipping Act 1995(4) (safety and health on ships), including that section as applied by any order in Council under section 1(1)(h) of the Hovercraft Act 1968(5).”

(3) Following regulation 7 of the principal Regulations (Duty to prevent smoking in smoke-free vehicles), insert—

**“Duty to prevent smoking in smoke-free private vehicles**

**7A.** The driver of a vehicle that is smoke-free by virtue of regulation 4A is under a duty to cause any person who is smoking in the vehicle to stop smoking.

**Fixed penalties**

**7B.** An authorised officer of an enforcement authority who has reason to believe that a person has committed an offence under section 8(4) of the Act in relation to a vehicle that is smoke-free by virtue of regulation 4A, may give that person a penalty notice in respect of the offence.”

---

(3) 1988 c.52. Section 192(1) was amended by the New Roads and Street Works Act 1991 (c.22), Sch. 8 (Pt IV) para. 12(4); the Treaty of Lisbon (Changes in Terminology) Order (S.I. 2011/1043), Pt 2 art. 6(1)(d); the Access to Justice Act 1999 (c.22) Sch. 15(Pt V)(1) para. 1, and by the Road Traffic Act 1991 (c.40), Sch. 4 para. 78(2) and (3).

(4) 1995 c.21. Section 85 was amended by the British Overseas Territories Act 2002 (c.8), section 2, and by the Merchant Shipping and Maritime Security Act 1997 (c.28), sections 8 and 29 and Schedule 7, Part 1.

(5) 1968 c.59. Section 1 was amended by the Control of Pollution Act 1974 (c.40), section 108 and Schedule 3; the Supreme Court Act 1981 (c.54), section 152 and Schedule 5; the Environment Protection Act 1990 (c.43), section 162 and Schedule 15; the Merchant Shipping Act 1995 (c.21), section 314 and Schedule 13; the Environment Act 1995 (c.25), section 120 and Schedule 24; the Merchant Shipping and Marine Security Act 1997 (c.28), section 29 and Schedule 6; the Constitutional Reform Act 2005 (c.4), section 59 and Schedule 11, and by S.I. 1978/1049. It was also modified by the Pilotage Act 1987 (c.21), section 32 and Schedule 2 and by the Merchant Shipping Act 1995, section 310.

(4) In the Schedule to the principal Regulations (Penalty Notice Forms), for form 2 substitute the form in the Schedule to these Regulations.

(5) In regulation 8 of the principal Regulations (Enforcement: designation of enforcement authorities), after paragraph (3) add—

“(4) The Chief Officer of each police force is designated as an enforcement authority for the purposes of Chapter 1 of Part 1 of the Act.

(5) An enforcement authority designated under paragraph (4) has enforcement functions in relation to vehicles that—

- (a) are smoke free by virtue of regulation 4A; and
- (b) are within the police area for which the police force in question is maintained(6)

2 June 2015

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

---

(6) The expressions “chief officer of police”, “police force” and “police area” are defined in relation to England and Wales, in section 101 of the Police Act 1996 (c.16).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

SCHEDULE

Regulation 2(4)

Ffurflen 2	Form 2
Ysmygu mewn man di-fwg	Smoking in a smoke-free place
Methu ag atal ysmygu mewn cerbyd preifat di-fwg.	Failing to prevent smoking in a smoke-free private vehicle.
<b>[ENW'R AWDURDOD GORFODI]</b>	<b>[NAME OF ENFORCEMENT AUTHORITY]</b>
<b>[CYFEIRIAD YR AWDURDOD GORFODI]</b>	<b>[ADDRESS OF ENFORCEMENT AUTHORITY]</b>
<b>DEDDF IECHYD 2006:</b>	<b>HEALTH ACT 2006:</b>
<b>ADRAN 7 (YSMYGU MEWN MAN DI-FWG)</b>	<b>SECTION 7 (SMOKING IN A SMOKE-FREE PLACE)</b>
<b>ADRAN 8 (METHU AG ATAL YSMYGU MEWN MAN DI-FWG: CERBYD PREIFAT)</b>	<b>SECTION 8 (FAILING TO PREVENT SMOKING IN A SMOKE-FREE PLACE: PRIVATE VEHICLE)</b>
<b>HYSBYSIAD O GOSB BENOEDIG</b>	<b>FIXED PENALTY NOTICE</b>
<b>SWM Y GOSB: £50</b>	<b>PENALTY AMOUNT £50</b>

**RHAN 1**  
**COPI'R DERBYNNYDD**

**PART 1**  
**RECIPIENT COPY**

<b>Rhif yr hysbysiad o gosb</b>	_____	<b>Penalty notice number</b>
Enw llawn y tramgyddwr honedig	_____ _____	Full name of alleged offender
Cyfeiriad y tramgyddwr honedig	_____ _____ _____	Address of alleged offender



---

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

---

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

sef mangre, lle neu gerbyd y mae darpariaethau adran 7 neu 8 o Ddeddf Iechyd 2006 yn gymwys iddi neu iddo, ac yr honnir eich bod chi wedi (*manylion y tramgwydd*):

being premises, a place or vehicle to which the provisions of section 7 or 8 of the Health Act 2006 applies, allegedly (*details of offence*):

\_\_\_\_\_

\_\_\_\_\_

Mae'r hysbysiad hwn yn rhoi cyfle ichi fodloni unrhyw atebolrwydd am gollfarn am y tramgwydd hwn drwy dalu cosb benodedig o **£50 (hanner cant o bunnoedd)**. Ni chychwynnir achos am y tramgwydd hwn cyn diwedd cyfnod o 29 diwrnod sy'n dechrau gyda (*y dyddiad y rhoddir yr hysbysiad hwn*)

This notice offers you the opportunity of discharging any liability for conviction for that offence by payment of a fixed penalty of **£50 (fifty pounds)**. No proceedings will be taken for this offence before the expiration of 29 days beginning with (*date on which this notice is given*)

\_\_\_\_\_

Ni fyddwch yn agored i'ch collfarnu am y tramgwydd os talwch y gosb benodedig o fewn y cyfnod hwnnw. Yn y Ffurflen hon, cyfeirir at y cyfnod hwn fel y cyfnod o 29 diwrnod.

You will not be liable to conviction for the offence if you pay the fixed penalty within that period. In this Form this period is referred to as the 29 day period.

**Cewch dalu swm gostyngedig o £30 (deg punt ar hugain) os talwch o fewn y cyfnod o 15 diwrnod sy'n dechrau gyda (*y dyddiad y rhoddir yr hysbysiad hwn*)**

**You can pay a discounted amount of £30 (thirty pounds) if you pay within the period of 15 days beginning with (*date on which this notice is given*)**

\_\_\_\_\_

Os nad yw'r 15fed diwrnod yn ddiwrnod gwaith, caniateir ichi dalu ar y diwrnod gwaith nesaf. Ystyr "diwrnod gwaith" yw unrhyw ddiwrnod nad yw'n ddydd Sadwrn, dydd Sul, Dydd Nadolig, dydd Gwener y Groglith nac unrhyw ddiwrnod sy'n wyl banc yng Nghymru a Lloegr o dan Deddf Bancio a Thrafodion Ariannol 1971. Yn y Ffurflen hon, cyfeirir at y cyfnod hwn fel y cyfnod o 15 diwrnod.

If the 15th day is not a working day, you may pay on the next working day. "Working day" means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971. In this Form this period is referred to as the 15 day period.

Mae Rhan 2 o'r hysbysiad hwn yn cynnwys gwybodaeth y dylid rhoi sylw iddi ar unwaith gan y person y rhoddir yr hysbysiad iddo. Rhoddir manylion am sut i dalu'r gosb benodedig yn Rhan 3 o'r hysbysiad hwn. Rhoddir manylion am sut i ofyn am wrandawriad llys ynglŷn â'r drosedd honedig hon yn Rhan 4 o'r hysbysiad hwn. **Os oes gennych unrhyw gwestiwn, neu os hoffech drafod yr hysbysiad hwn, cysylltwch â/ag [enw a chyfeiriad yr awdurdod gorfodi ynghyd â'i fanylion cyswllt].**

Information for the immediate attention of the person who has been issued this penalty notice is at Part 2 of this notice. Details about how to pay this fixed penalty are at Part 3 of this notice. Details about how to request a court hearing in relation to this alleged offence are at Part 4 of this notice. **If you have any questions, or if you wish to discuss this notice, please contact [name and address of enforcement authority and contact details].**

*Llofnod y swyddog awdurdodedig*

*Signature of authorised officer*

*Dyddiad dyroddi*

*Date of issue*

## **RHAN 2**

### **GWYBODAETH AR GYFER SYLW PRYDLON Y PERSON Y RHODDIR YR HYSBYSIAD HWN IDDO:**

Rydych wedi cael yr hysbysiad hwn oherwydd bod gan swyddog awdurdodedig [enw'r awdurdod gorfodi], a enwir yn Rhan 1 o'r hysbysiad hwn, reswm i gredu eich bod wedi cyflawni'r tramgwydd o

- (i) ysmegu mewn mangre neu gerbyd di-fwg; neu
- (ii) methu ag atal ysmegu mewn cerbyd preifat di-fwg,

fel y'i disgrifir yn Rhan 1. O fewn y **cyfnod o 29 diwrnod a bennir yn Rhan 1, rhaid ichi naill ai dalu'r gosb neu ofyn am wrandawriad i'r mater gerbron llys. Ni chaniateir ichi wneud y ddau beth.**

Os methwch â gwneud y naill beth na'r llall, caiff [enw'r awdurdod gorfodi] fel awdurdod gorfodi yn rhinwedd adran 10 o Ddeddf Iechyd 2006, ddwyn y mater gerbron llys. Mae person a geir yn euog o ysmegu mewn man di-fwg yn agored, o'i gollfarnu'n ddiannod, i ddirwy nad yw'n fwy na lefel 1 ar y raddfa safonol. Mae person a geir yn euog o'r tramgwydd o ysmegu mewn cerbyd preifat di-fwg yn agored, o'i gollfarnu'n ddiannod, i ddirwy nad yw'n fwy na lefel 4 ar y raddfa safonol.

## **PART 2**

### **INFORMATION FOR THE IMMEDIATE ATTENTION OF THE PERSON WHO HAS BEEN ISSUED WITH THIS NOTICE:**

You have received this notice because the authorised officer of [name of enforcement authority] named in Part 1 of this notice has reason to believe that you have committed the offence of

- (i) smoking in a smoke-free premises or vehicle; or
- (ii) failing to prevent smoking in a smoke-free private vehicle,

as described in Part 1. Within the **29 day period specified in Part 1, you must either** pay the penalty or request that the matter be heard by a court. You may not do both.

If you fail to do either, [name of enforcement authority] as an enforcement authority by virtue of section 10 of the Health Act 2006, may pursue this matter in court. A person found guilty of the offence of smoking in a smoke-free place is liable on summary conviction to a fine not exceeding level 1 on the standard scale. A person found guilty of the offence of failing to prevent smoking in a smoke-free private vehicle is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**RHAN 3****TALU'R GOSB**

Swm y gosb benodedig yw **£50 (hanner cant o bunnoedd)**. Rhaid talu'r swm o fewn y cyfnod o 29 diwrnod a bennir yn Rhan 1.

Cewch dalu swm gostyngedig o **£30 (deg punt ar hugain)** os byddwch yn talu o fewn y cyfnod o 15 diwrnod a bennir yn Rhan 1. Os byddwch yn dewis talu'r gosb hon, ni chymerir camau pellach mewn perthynas â'r tramgwydd honedig a ddisgrifir yn Rhan 1 o'r hysbysiad hwn. Nid yw talu'r gosb yn golygu eich bod yn cyfaddef eich bod yn euog, ac ni fydd yn achosi cofnod o gollfarn droseddol yn eich erbyn. Gellir talu drwy gwblhau Rhan 3A isod a'i hanfon ynghyd â'r taliad i'r cyfeiriad a nodir yn y Rhan honno, neu drwy gwblhau Rhan 3A isod a thalu'r swm yn bersonol yn [enw a chyfeiriad yr awdurdod gorfodi].

Mae'r dulliau talu derbyniol yn cynnwys arian, sicc, archeb bost neu archeb arian, neu ar-lein yn y cyfeiriad gwe canlynol [cyfeiriad ar gyfer gwneud taliadau ar lein]. Dylid gwneud sicciau, archebion post neu archebion arian yn daladwy i [enw'r awdurdod gorfodi]. Os dewiswch dalu'r gosb hon gydag arian drwy'r post, rhaid ei anfon drwy'r post cofrestredig, a rhaid cadw'r prawf o'r postio. Os oes arnoch angen derbynneb am y taliad o'r gosb, rhaid ichi ofyn am dderbynneb wrth dalu, ac os byddwch yn talu drwy'r post, rhaid ichi ddarparu amlen stampiedig wedi ei hunan-gyfeirio.

**RHYBUDD: NI DDERBYNNIR TALIADAU SY'N CYRRAEDD YN HWYR. NI FYDDWN YN ANFON NODYN ATGOFFA ATOCH.**

**RHAN 3A**

**TALU COSB BENODEDIG A DDYRODDIR O DAN ADRAN 7 NEU 8 O DDEDDF IECHYD 2006**

**(YSMYGU MEWN MAN DI-FWG NEU FETHU AG ATAL YSMYGU MEWN CERBYD PREIFAT DI-FWG)**

**PART 3****PAYING THE PENALTY**

The amount of the fixed penalty is **£50 (fifty pounds)**. It must be paid within the 29 day period which is specified in Part 1.

You can pay a discounted amount of **£30 (thirty pounds)** if you pay within the 15 day period which is specified in Part 1. If you choose to pay this penalty, no further action will be taken in respect of the alleged offence described at Part 1 of this notice. The payment of the penalty involves no admission of guilt and will not result in a record of criminal conviction being made against you. Payment may be made by completing Part 3A below and sending it with payment to the address stated in that Part, or by completing Part 3A below and paying in person at [name and address of enforcement authority].

Acceptable methods of payment include cash, cheque, postal order or money order or online at the following web address [address for making online payments]. Cheques, postal orders or money orders should be made payable to [name of enforcement authority]. If you choose to pay this penalty in cash by post, this must be sent by registered post, and proof of posting must be retained. If you require a receipt for the payment of the penalty, you must ask for one at the time of payment, and if paying by post, you must provide a stamped, self-addressed envelope.

**WARNING: LATE PAYMENT WILL NOT BE ACCEPTED. YOU WILL NOT BE SENT A REMINDER.**

**PART 3A**

**PAYMENT OF FIXED PENALTY ISSUED UNDER SECTION 7 OR 8 OF THE HEALTH ACT 2006**

**(SMOKING IN A SMOKE-FREE PLACE OR FAILING TO PREVENT SMOKING IN A SMOKE-FREE PRIVATE VEHICLE)**



<i>Rhaid anfon y slip hwn gyda phob taliad</i>	<i>This slip must accompany all payments</i>
At [Enw a chyfeiriad yr awdurdod gorfodi y dylid anfon y taliad ato]	To [Name and address of enforcement authority where payment should be sent]
<b>Rhif yr hysbysiad o gosb</b>	<b>Penalty notice number</b>
Yr wyf yn amgáu'r swm o: ( <i>ticiwch un blwch</i> )	I enclose the amount of ( <i>tick one box</i> )
(os gwneir y taliad o fewn y cyfnod o 15 diwrnod a bennir yn Rhan 1)	<input type="checkbox"/> <b>£30</b> (if the payment is made within the 15 day period specified in Part 1)
(os gwneir y taliad o fewn y cyfnod o 29 diwrnod a bennir yn Rhan 1)	<input type="checkbox"/> <b>£50</b> (if the payment is made within the 29 day period specified in Part 1)
Enw llawn y tramgwyddwr honedig	Full name of alleged offender
Cyfeiriad y tramgwyddwr honedig	Address of alleged offender
Cod post	Post code
Llofnod	Signature
Dyddiad	Date

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**RHAN 4****PART 4****GOFYN AM WRANDAWIAD LLYS****REQUESTING A COURT HEARING**

Os ydych yn dewis gofyn am wrandawriad llys, **rhaid** gwneud hynny o fewn y cyfnod o 29 diwrnod drwy gwblhau Rhan 4A a'i hanfon at [enw'r awdurdod gorfodi], neu drwy ysgrifennu at [enw'r awdurdod gorfodi] yn y cyfeiriad a nodir yn Rhan 4A, gan roi eich manylion, rhif yr hysbysiad o gosb (sydd i'w gael yn Rhan 1 o'r hysbysiad hwn) a'r cyfeiriad lle y gellir cyflwyno gwŷs i chi. Bydd y wŷs yn dweud wrthyfch ym mhle a pha bryd i fod yn bresennol yn y llys. Dim ond derbynnydd yr hysbysiad hwn(sef y person a enwir yn Rhan 1) gaiff ofyn am wrandawriad llys.

If you choose to request a court hearing, you **must** within the 29 day period do so by completing Part 4A and sending it to [name of enforcement authority], or by writing to [name of enforcement authority] at the address stated in Part 4A, giving your details, the penalty notice number (which can be found in Part 1 of this notice) and an address at which a summons can be served on you. The summons will tell you when and where to attend court. Only the recipient of this notice (the person named at Part 1) may request a court hearing.

**RHAN 4A****PART 4A****DEDDF IECHYD 2006:****HEALTH ACT 2006:**

**YSMYGU MEWN MAN DI-FWG O DAN  
ADRAN 7 NEU  
METHU AG ATAL YSMYGU MEWN  
CERBYD PREFIAT DI-FWG O DAN  
ADRAN 8**

**SMOKING IN A SMOKE-FREE PLACE  
UNDER SECTION 7 OR  
FAILING TO PREVENT SMOKING IN A  
SMOKE-FREE PRIVATE VEHICLE UNDER  
SECTION 8**

**CAIS AM I LYS BARN YMDRIN Â'R  
TRAMGWY HONEDIG****REQUEST FOR ALLEGED OFFENCE TO  
BE DEALT WITH BY A COURT OF LAW**

At  
[Enw a chyfeiriad yr awdurdod  
gorfodi y dylid anfon rhan 4A  
ato]

To  
[Name and address of  
enforcement authority where  
part 4A should be sent]

**Rhif yr hysbysiad o gosb**

**Penalty notice number**

Rwyf yn dymuno i lys barn ddelio â mi ynglŷn â'r  
tramgwy honedig.

I wish to be dealt with by a court of law for the  
alleged offence.

Enw llawn y tramgwyddwr  
honedig

Full name of alleged offender

Cyfeiriad y tramgwyddwr  
honedig

Address of alleged offender

Cod post

Post code

Llofnod

Signature

Dyddiad

Date

---

© Hawlfraint y Goron 2015

Angraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Carol Tullo, Rheolwr Gwasg Ei Mawrhydi ac Angraffydd Deddfau Seneddol y Frenhines.

---

© Crown copyright 2015

Printed and Published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

---

## EXPLANATORY NOTE

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

These Regulations made under Chapter 1 of Part 1 of the Health Act 2006 contain provisions which relate to smoke-free vehicles in Wales. They amend the Smoke-free Premises etc (Wales) Regulations 2007 (“the principal Regulations”).

Regulation 2(1) amends regulation 1 of the principal Regulations (interpretation).

Regulation 2(2) inserts a new regulation 4A into the principal Regulations which provides for private vehicles to be smoke-free when they are enclosed, there is more than one person in the vehicle and a person under the age of 18 is present in the vehicle. Aircraft and most ships and hovercraft are excluded. Caravans and motorhomes are excluded in certain circumstances.

Regulation 2(3) inserts a new regulation 7A into the principal Regulations which provides that the driver of a vehicle that is smoke-free by virtue of regulation 4A is under a duty to cause persons to stop smoking in that vehicle. It also inserts a new regulation 7B into the principal Regulations which provides that a penalty notice may be given where there is reason to suspect that an offence of failing to prevent smoking in a smoke-free private vehicle has been committed.

Regulation 2(4) replaces penalty notice form 2 in the Schedule to the principal Regulations with the penalty notice form in the Schedule to these Regulations which means that the form can be used for the offence of failing to prevent smoking in a smoke-free private vehicle under section 8 of the Health Act 2006, as well as the offence of smoking in a smoke-free place under section 7 of that Act.

Regulation 2(5) provides for chief officers of police to be enforcement authorities for smoke-free private vehicles.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Tobacco Policy Branch of the Public Health Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.