

National Assembly for Wales

Constitutional and Legislative Affairs Committee

CLA642 - The Smoke-free Premises etc. (Wales) (Amendment) Regulations 2016

Procedure

Affirmative

Background

These regulations are made under the smoke-free provisions of the Health Act 2006. The regulations exempt, until 5 April 2017, “designated rooms” for adults in prisons in Wales from the smoking ban. A “designated room” is a cell which is:

- designated in writing by the person in charge of the prison,
- completely enclosed,
- does not have a ventilation system (and does not ventilate into any other part of the prison),
- clearly marked as a room in which smoking is permitted.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3(ii) in respect of this instrument (that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly).

A judicial review case has confirmed that the smoke-free provisions in the Health Act 2006 apply to private prisons and state-run prisons. This confirms that prisons in Wales are smoke-free, unless exemptions are made. These regulations provide such an exemption, until 5 April 2017. Between now and 5 April 2017, prisons in Wales will be supported to becoming smoke-free.

The judicial review case is *Black v Secretary of State for Justice* [2015] EWHC 528 (Admin).

Legal Advisers

Constitutional and Legislative Affairs Committee

19 January 2016

