



Research Briefing **Public Health (Wales) Act 2017**

- Act Summary



National Assembly for Wales
Research Service

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Contents

1. Background	1
2. What does the Act do?.....	1
Part 2 Obesity.....	1
Part 3 Tobacco and nicotine products.....	1
Part 4 Special procedures	2
Part 5 Intimate piercing	2
Part 6 Health Impact Assessments	2
Part 7 Pharmaceutical services.....	3
Part 8 Provision of toilets	3
Part 9 Miscellaneous and general.....	3
3. Passage through the Assembly	3
Introduction	3
Stage 1.....	3
Stage 2.....	4
Stage 3.....	4
Stage 4.....	4
Royal Assent.....	4
4. Implementation of the Act	5

1. Background

The [Public Health \(Wales\) Act 2017](#) received Royal Assent on 3 July 2017.

The Act aims to address a number of specific public health concerns, and to create social conditions that are conducive to good health and where avoidable harms can be prevented. It includes provisions relating to obesity, tobacco and nicotine products, special procedures (acupuncture, body piercing, electrolysis, tattooing), intimate piercing, health impact assessments, pharmaceutical services, and toilets for public use.

The Welsh Government has emphasised that the Public Health (Wales) Act is intended to sit alongside a broader suite of actions for improving public health (including other legislative action, public health services, programmes and campaigns).

This was the second time the Welsh Government had brought forward such legislation. The previous Government introduced its [Public Health \(Wales\) Bill](#) in June 2015. That Bill was rejected in March 2016 at Stage 4.

The 2015 Bill was preceded by a [Green Paper](#) on public health, published in 2012. A [White Paper](#) followed in April 2014 which presented a series of proposals for primary and secondary legislation.

The Public Health (Wales) Bill introduced in November 2016 was in the form of the previous Bill as amended at Stage 3, but without the sections restricting the use of electronic cigarettes in enclosed public places.

2. What does the Act do?

Part 1 provides an overview of the Public Health (Wales) Act 2017.

Part 2 Obesity

Part 2 of the Act requires the Welsh Government to publish a national strategy on preventing obesity and reducing obesity levels in Wales. The strategy will be subject to consultation and to regular review. The Welsh Government must publish a progress report following each review.

Part 3 Tobacco and nicotine products.

This part includes four chapters:

Chapter 1 re-states restrictions on smoking in enclosed and substantially enclosed public and work places. Additionally, it places restrictions on smoking in outdoor care settings for children, school grounds, hospital grounds and public playgrounds. The [Explanatory Memorandum](#) to the Bill (PDF 2MB) stated that restricting smoking in non-enclosed spaces such as hospital grounds, school grounds and children's playgrounds would contribute to the de-normalisation of smoking, by providing fewer opportunities for the activity of smoking to be seen. In addition, the provisions relating to hospital grounds are intended to promote behaviour change and support smoking cessation among smokers who use hospital services. The Act gives Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles, where it's considered that this is 'likely to contribute towards the promotion of the health of the people of Wales'.

Chapter 2 establishes a national register of retailers of tobacco and nicotine products. All retailers who sell either tobacco products or nicotine products in Wales will have to register in order to be

permitted to sell these products - it will be an offence to sell tobacco/nicotine products from premises (including mobile units) in Wales if they are not on the national register. By providing local authorities with a definitive list of retailers in their areas who sell tobacco or nicotine products, it's envisaged that the register will aid enforcement of tobacco and nicotine legislation, such as that relating to age of sale (tobacco and nicotine products) and the display of tobacco products. The register will also be used to disseminate information and guidance to retailers.

Chapter 3 provides Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales. (An RPO prohibits the sale from a premises of any tobacco products to any person, by the business or any of its staff for a period of up to one year). Such offences must relate to the supply, sale, transport, display, offer for sale, advertising or possession of tobacco and nicotine products.

Chapter 4 prohibits the handing over of tobacco and/or nicotine products to a person under the age of 18. This relates to situations where, for example, a delivery driver knowingly hands over tobacco or nicotine products to someone under the 18 who is unaccompanied by an adult. (Proxy purchasing, where an adult purchases (or attempts to purchase) tobacco products for a person or persons under 18 is already an offence under the Children and Families Act 2014). This part of the Act aims to reduce the risk of young people under the age of 18 accessing tobacco and/or nicotine products through remote sales (i.e. through the internet or phone sales).

Part 4 Special procedures

The Act creates a mandatory licensing scheme for practitioners and businesses carrying out special procedures in Wales. The four special procedures specified in the Act are acupuncture, body piercing, electrolysis, and tattooing. It will be an offence for a practitioner to carry out any of these special procedures without a licence, or to perform any procedure from premises or vehicles that are not approved. The overall purpose is to ensure that where special procedures are carried out, this is done so in a manner which is not potentially harmful to health. There is provision to add to the list of special procedures (or to remove procedures) via regulations, to take account of new practices and changing trends, and any emerging evidence of public health risk.

Part 5 Intimate piercing

The Act prohibits the intimate piercing of a person who is under the age of 18 in Wales, in any setting. It will also be an offence to make arrangements to perform such a procedure on a person under 18. 'Intimate piercing' includes piercings of the nipples, breast, genitalia, buttocks, or tongue. The aim is to protect children and young people from the potential health harms which can be caused by an intimate piercing, and to avoid circumstances where children and young people are placed in a potentially vulnerable situation.

Part 6 Health Impact Assessments

The Act places a duty on the Welsh Ministers to make regulations which require public bodies to carry out health impact assessments in specified circumstances. (In the Explanatory Memorandum, health impact assessments (HIA) are described as offering 'a systematic means of taking health into account as part of decision making and planning processes. They are a tool which can be used in any area of public, private or voluntary sector activity, and at both national and local levels'). The Act aims to take a proportionate approach - assessments would be limited to policies, plans and programmes which have outcomes of national or major significance, or which have a significant effect at the local level on public health.

Part 7 Pharmaceutical services

Anyone wishing to provide NHS pharmaceutical or dispensing services must apply to the relevant Health Board for inclusion on that Health Board's pharmaceutical list. Under the Act, Health Boards will be required to prepare and publish 'pharmaceutical needs assessments' for their areas. The Act amends the current 'control of entry' test so that decisions on applications to join a Health Board's pharmaceutical list will be based on whether the application meets the need(s) identified in the local pharmaceutical needs assessment. The Act aims to improve the planning and delivery of pharmaceutical services, and strengthen the role of community pharmacy in promoting and protecting public health.

Part 8 Provision of toilets

Under the Act, each local authority in Wales will be required to prepare and publish a local toilets strategy for its area. This must include an assessment of their community's need for toilets (including changing facilities for babies and changing places facilities for disabled people), and must set out how the local authority proposes to meet this need. Local authorities will be required to consult with interested parties on their draft strategies. The Welsh Government must issue guidance to local authorities about the preparation, review and publication of strategies, which local authorities must have regard to. The Act does not place a duty on local authorities to provide or maintain public toilets, nor is there a specific requirement for local authorities to implement their toilet strategies. It is envisaged that local authorities will consider a 'full range of options' for making facilities available to the public.

Part 9 Miscellaneous and general

The Act makes a minor technical amendment to the Food Hygiene Rating (Wales) Act 2013 so that the receipts from fixed penalty notices for non-compliance with the food hygiene rating scheme must be used by food authorities (primarily local authorities) to enforce the scheme. This will bring the Food Hygiene Rating (Wales) Act into line with the provisions of the Public Health (Wales) Act, under which receipts from fixed penalty notices issued under Part 3 must be used by enforcement authorities to support the new duties imposed on them in these chapters of the Act.

The [Explanatory Notes](#) which accompany the Act provide a commentary on the individual sections.

The Research Service Bill summaries, referenced below, also include further detail about the provisions of the legislation as introduced, and as amended at Stage 2.

3. Passage through the Assembly

Introduction

The Public Health (Wales) Bill was introduced in [Plenary](#) by the Minister for Social Services and Public Health, Rebecca Evans AM, on 8 November 2016.

Stage 1

The Business Committee remitted the Bill to the Health, Social Care and Sport Committee. The Committee held a public [consultation](#) on the general principles of the Bill, which closed on 16 December 2016. The Committee began taking oral evidence on 1 December 2016. It held 12 evidence sessions. The Committee [reported](#) (PDF 962KB) on its Stage 1 consideration of the general principles of the Bill on 10 February 2017.

The [Constitutional and Legislative Affairs Committee](#) (PDF 702KB) and [Finance Committee](#) (PDF 780KB) also published reports on their consideration of the Bill on 10 February 2017.

The Research Service published a [Bill summary](#) (PDF 996KB), ahead of the [Stage 1 debate](#) which took place in Plenary on 28 February 2017. The motion to agree the general principles of the Bill was agreed.

Stage 2

Stage 2 began on 1 March 2017. The Health, Social Care and Sport Committee met to consider and dispose of amendments to the Bill on [23 March 2017](#).

All amendments brought forward by the Welsh Government were agreed. Whilst no opposition amendments were agreed, the Minister for Social Services and Public Health indicated that she would work with Members and consider bringing forward further amendments in a number of areas at Stage 3.

One of the key changes made at Stage 2 was to raise the proposed age restriction on intimate piercing from 16 to 18 years. This was in response to a recommendation from the Health, Social Care and Sport Committee in its Stage 1 report.

The Research Service published an [updated Bill summary](#) (PDF 315KB), summarising the changes at Stage 2.

Stage 3

Stage 3 consideration and disposal of amendments took place in Plenary on [9 May 2017](#).

A significant change at Stage 3 was the inclusion of a new part of the Bill which would require the Welsh Government to produce a national obesity strategy and to keep this under review. Opposition amendments (Rhun ap Iorwerth AM, Plaid Cymru) had been tabled at Stage 2. These amendments were not agreed, however the Minister stated that she would work with the Member concerned and give further consideration to this issue. Plaid Cymru subsequently brought forward revised amendments about an obesity strategy, which were accepted at Stage 3.

Stage 4

The final text of the Bill was passed by the Assembly following a debate in Plenary on [16 May 2017](#).

Royal Assent

Once a Bill is passed, a four week period of intimation begins. During this period, the Counsel General, Attorney General or Secretary of State for Wales may challenge whether the Bill (or part of it) is within the Assembly's legislative competence and refer the Bill to the Supreme Court for decision.

The Bill was not challenged and subsequently received Royal Assent on 3 July 2017.

Further information and relevant documents can be accessed via the [Public Health \(Wales\) Act 2017](#) page on the Assembly website.

4. Implementation of the Act

During Stage 1 scrutiny, the Minister highlighted that detailed work would need to be undertaken to develop the secondary legislation and guidance needed to implement the provisions of the legislation. She told the Health, Social Care and Sport Committee:

It's the intention to publish a detailed implementation of the Bill in due course as well, and that will give certainty and clarity to those bodies that are subject to the Bill, but also to members of the public and stakeholders with an interest, because obviously there's going to be a process of consultation and engagement with stakeholders as we move to develop those regulations.
