

Consultation response form

Your name: Amanda Sandford

Organisation (if applicable):
Action on Smoking & Health

e-mail/telephonenumber:
Amanda.sandford@ash.org.uk
020 7739 5902

Your address:
1st Floor, 144-145 Shoreditch High Street,
LONDON
E1 6JE

Responses should be returned by 16 March 2012 to:

**Life Course Branch
Welsh Government
4th Floor
Cathays Park 2
Cardiff
CF10 3NQ**

or completed electronically and sent to:

e-mail: TobaccoPolicyBranch@Wales.gsi.gov.uk

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please tick here:

Questions

► **Question 1: Should the Smoke-Free Premises etc. (Wales) Regulations 2007 be amended to permit smoking by performers where the artistic integrity of the performance makes it appropriate for the performer to smoke?**

Are the proposed Regulations adequate enough to avoid misuse of the exemption?

No, the regulations should not be amended. We understand the concerns raised by the creative industries. However, amending the smokefree regulations in Wales would be a disproportionate and retrograde step for a perceived but unverified economic loss.

Given the harm caused by active and passive smoking, we believe the Welsh, Scottish and Northern Ireland governments were justified in NOT allowing exemptions to the smokefree regulations on grounds of 'artistic integrity' when the smokefree laws were first implemented and it is unfortunate that the Westminster government allowed this exception which has led to the unintended consequence of having different rules being applied in neighbouring jurisdictions.

Furthermore, the proposal to weaken the smokefree regulations, albeit in restricted circumstances, runs counter to the Government of Wales' Tobacco Control Delivery Plan which sets out a range of measures to further reduce smoking, as acknowledged in the background paper to support this consultation. Specifically, the importance of protecting people from secondhand smoke is recognised by the proposal to extend the smoking ban to certain areas in hospital grounds. Therefore it does not make sense to undermine this policy by allowing smoking in film or TV studios for reasons of 'artistic integrity' which will result in actors and crew being exposed to tobacco smoke, putting them at risk of developing serious adverse health outcomes.

In addition, there is a risk that a smokefree exemption may result in actors who do not smoke being pressured into smoking for the purposes of the film/television production. Actors who have become regular smokers because they were required to smoke in films include Ray Winstone¹ and Keanu Reeves.² In an interview in the Daily Mail Keanu Reeves states that he "*got hooked making Feeling Minnesota and now it's a prison, but I want to stop*". When asked about his attitude to smoking, Ray Winstone said: "*I hate it, but I do it. I had to chain smoke on a film years ago and I've had 15 a day ever since.*"

► Question 2: Are the conditions required by this exemption sufficient to minimise the risk of exposing others to second-hand smoke?

No.

A comprehensive review of the evidence of the harm caused by exposure to secondhand smoke by the US Surgeon General concluded that there was no safe level of exposure.³ Even relatively brief exposure can trigger acute reactions in people with pre-existing respiratory or circulatory conditions. There are over 250,000 adults in Wales with asthma among whom cigarette smoke is the one of the most common triggers.

If the regulations were to change, it is possible that actors would be offered the chance to use tobacco-free herbal cigarettes as opposed to ordinary cigarettes. However, herbal cigarettes also pose a risk to the smoker and those around them as they produce tar, carbon monoxide and other toxins when smoked.⁴

We understand that fake cigarettes are available that could be used when it is deemed necessary to show an actor smoking. An example of high quality props and computerised graphics can be seen in a recent episode of the Big Bang Theory where a monkey appeared to be smoking a lit cigarette which was in fact a prop⁵, and anecdotal evidence from Scotland suggests that independent producers are using props in place of a lit substance.

► Question 3: Are the provisions to protect children from exposure to second-hand smoke within the proposed Regulations sufficient?

The proposal to exclude children from scenes where smoking takes place would protect them from secondhand smoke exposure. However, there are other risks that could arise from allowing smoking for purposes of 'artistic integrity'.

There is a risk that smoking will feature more regularly during TV and film production in Wales. This in turn will normalise and glamorise smoking^{6,7,8} and increase the risk of smoking initiation among children, thus undermining the Welsh Government's aim of reducing smoking prevalence to 16% by 2020. A systematic review in 2008 by the National Cancer Institute, part of the [US Department of Health and Human Services](#), concluded that the evidence "*indicates a causal relationship*

*between exposure to movie smoking depictions and youth smoking initiation.*⁹ Subsequent peer reviewed studies have also confirmed a causal link between exposure to smoking imagery in films and take-up of smoking by adolescents.^{10 11 12}

► ***Question 4: Will the provisions in the proposed Regulations be able to be enforced effectively?***

As they stand, these regulations would be difficult to enforce since “artistic integrity” is open to interpretation and not clearly defined. It would therefore make the job of enforcement officers extremely difficult. The additional requirements to prohibit smoking scenes when the public or children are present would add to the burden of checks required to enforce the regulations.

► **Question 5: The Welsh Government will provide Guidance to support the implementation of the proposed exemption: will this support be sufficient to assist with the interpretation of the conditions of the exemption (for example, the requirement for ‘artistic integrity’)?**

It is difficult to answer this question without foresight of the guidance.

However, if the proposed amendment is passed, the guidance should set out who will be responsible for enforcing the regulations and the penalties for breaching the guidance.

► **Question 6: Does the draft Regulatory Impact Assessment accurately reflect the costs and benefits of the proposed Regulations? If not, please provide additional information to support your answer.**

Option 1

It is stated that indoor smoking scenes are currently being filmed in Bristol at a cost of between £4,000 and £25,000 per day. However, there is no reason for this to occur. Realistic props exist and computer generated smoke can be added to footage in post-production. Production companies are able to simulate a wide range of behaviours that would be harmful to health: drug taking, car crashes and shootings. Accordingly, it should be within their capabilities to simulate smoking. This would negate the risk of performances moving to Bristol or other locations outside Wales.

Option 2

Although it may not be possible to quantify the cost of treating additional ill health as a result of exposure to secondhand smoke in the workplace, nevertheless, smoking places a huge financial burden on society. Furthermore, the health risks are not limited to secondhand smoke if actors who are required to smoke become addicted to smoking.

In relation to the economy, the statement that introducing the exemption could ‘possibly’ bring more productions to Wales is not a strong enough reason to risk exposing the cast and crew of productions to secondhand smoke. Productions have already moved from Bristol to Wales when there was no exemption, and accordingly Wales must be seen as an attractive environment for film and TV in its own right. By contrast, no creative companies have moved from Wales to England as a consequence of the current smokefree law. The proposed amendment is based on pure speculation that this might occur.

As previously mentioned, it is legal for production companies to portray smoking through the use of props inside a studio, and to smoke outside a studio, as is current practice in Scotland and northern Ireland.

► **Question 7: Do you think there would be any negative impact on individuals or communities within Wales on the grounds of: disability; race; gender or gender reassignment; age; religion and belief and non-belief; sexual orientation; pregnancy and maternity; marriage and civil partnerships; or Human Rights as a result of the proposed Regulations?**

The regulations, should they be passed, will expose all actors and crew present to the health risks of secondhand smoke. This will not differentiate between individuals and communities.

However, some groups may experience more severe negative health effects including those with pre-existing conditions including asthma, and those who are pregnant. For pregnant women secondhand smoke can cause negative health consequences for the baby, including still birth¹³ and low birth weight.¹⁴

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

As noted in response to Question 3, there is a growing body of evidence to show that young people who are exposed to smoking imagery in films are at increased risk of smoking initiation. Consequently the long term impacts of this policy change are likely to be even greater on children than on production staff.

The need to protect children by reducing exposure to tobacco imagery is a stated goal of the Welsh Government's Tobacco Control Delivery Plan.

Amending the regulations would also work against the Plan's Action Area of 'reducing the uptake of smoking'. In addition, the Welsh Government states its intention to reduce smoking prevalence from 23% to 16% by 2020. This is an ambitious target, which will only be achievable with a robust commitment to denormalising smoking alongside the action points within the plan.

For the reasons above, we strongly oppose the proposal to amend the smokefree regulations in Wales.

-
- ¹: [My body and soul: Ray Winstone](#). . The Guardian, 3 Jan. 2010
 - ² [I started smoking at 30 and now can't stop: Keanu Reeves reveals bad habits picked up on film sets](#). Daily Mail, 7 Dec. 2008.
 - ³ [The Health Consequences of Involuntary Exposure to Tobacco Smoke](#). A Report of the Surgeon General. Office of the Surgeon General, 2006
 - ⁴ [FTC accepts settlements of charges that 'alternative' cigarette ads are deceptive](#). US Federal Trade Commission, 2000.
 - ⁵. [The Big Bang Theory](#). Season 4, episode 20 and 21. [NB: the monkey 'smokes' from 33 seconds onwards.]
 - ⁶Sargent JD, Hanewinkel R. Comparing the effects of entertainment media and tobacco marketing on youth smoking in Germany. *Addiction* 2009; 104: 815-823.
 - ⁷Gibson B, Maurer J. Cigarette smoking in the movies: The influence of product placement on attitudes toward smoking and smokers. *J. Applied Social Psychology* 2000; 30(7):1457-1473.
 - ⁸Hanewinkel R. Cigarette smoking and perception of a movie character in a film trailer. *Arch Pediatr Adolesc Med*. 2009; 163 (1):15-18.
 - ⁹ The National Cancer Institute. *The Role of the Media in Promoting and Reducing Tobacco Use*. Tobacco Control Monograph No. 19. US Department of Health and Human Services National Institutes of Health, 2008.
 - ¹⁰ Waylen A, Leary SD, Ness AR, et al. Cross sectional association between smoking depictions in films and adolescent tobacco use nested in a British cohort study. *Thorax* 2011
 - ¹¹ Hunt K, Henderson M, Wight D, et al. Exposure to smoking in films and own smoking amongst Scottish adolescents: a cross-sectional study. *Thorax* 2011.
 - ¹² Morgenstern M, Poelen E, Karlsdottir S, et al. Smoking in movies and adolescent smoking: crosscultural study in six European countries. *Thorax* 2011
 - ¹³ [Passive smoking and children](#). Royal College of Physicians, 2010.
 - ¹⁴ Wisborg K, Kesmodel U, Henriksen TB, Olsen SF, Secher NJ. Exposure to tobacco smoke in utero and the risk of stillbirth and death in the first year of life. *Am J Epidemiol*. 2001; 154:322-7.