

POLICY NOTE

THE SMOKE CONTROL AREAS (EXEMPTED FIREPLACES) (SCOTLAND) ORDER

SSI 2014/316

THE SMOKE CONTROL AREAS (AUTHORISED FUELS) (SCOTLAND) REGULATIONS 2014

SSI 2014/317

The above Instruments are made in exercise of the powers conferred by sections 20 and 21 of the Clean Air Act 1993. The Instruments are subject to negative procedure.

Background

The Clean Air Act 1993 enables local authorities to declare smoke control areas in which it is an offence to emit smoke from chimneys. Premises within a smoke control area must either burn smokeless fuels or use appliances that burn smoky fuel, such as coal or wood, without creating smoke.

Section 20 of the Act generally prohibits the emission of smoke in control areas. However, section 21 of the Act enables the Scottish Ministers to make Orders exempting fireplaces (subject to conditions) from the provisions of section 20 of the Act so that such fireplaces may burn unauthorised fuels in smoke control areas, provided that no smoke, or only limited smoke, is emitted. Section 20(6) of the Act enables Scottish Ministers to make regulations declaring fuels to be authorised for use in smoke control areas provided that no smoke, or only limited smoke, is emitted. Such fuels can also be used in non exempt fireplaces.

Policy objectives

The Order will allow manufacturers to place the listed fireplaces on the market for use in smoke control areas. The Regulations do the same for authorised fuels. There will be no adverse impact on air quality. The majority of the fireplaces and fuels have already been exempted by previous Instruments. The Smoke Control Areas (Exempt Fireplaces) (Scotland) Order 2010 and The Smoke Control Areas (Authorised Fuels) (Scotland) Regulations 2010 continued the procedure of rolling consolidations introduced in 2008, resulting in single SSIs to cover all exempt fireplaces and authorised fuels. The 2014 Instruments are rolling consolidations of the 2010 Instruments with the addition of all fireplaces and fuels exempted since these came into force.

The Instruments will be distributed to all local authorities and, for information, to the Scottish Environment Protection Agency (SEPA). Local authorities are responsible for declaring and enforcing smoke control areas.

Consultation

The Instruments do not impose any new legal or financial burdens on business or industry, therefore no consultation or impact assessment was undertaken.

When manufacturers or suppliers apply for exemptions, technical experts at Ricardo-AEA are consulted in order to test the fireplaces and fuels. Only those fireplaces and fuels which comply with inspection criteria, when used under specified conditions, are recommended for use in smoke control areas.

The fireplaces named in the Order, which burn mainly wood, and the fuels named in the Regulations, have been tested by Ricardo-AEA on behalf of the Scottish Government and recommended for exemption and authorisation respectively. All models and fuels have passed the British Standard tests for smokeless operation. The Instruments will permit the manufacturers of these fireplaces and fuels to place them on the market for use in smoke control areas.

Effects of the Instruments

The Instruments will have no negative environmental impact, and have no socio-economic implications. They will merely permit the use of the specified fireplaces and fuels within smoke control areas, subject to conditions.

**Scottish Government
Directorate for Environment & Forestry**

18 November 2014