

POLICY NOTE

THE SMOKE CONTROL AREAS (EXEMPTED FIREPLACES) (SCOTLAND) REVOCATION ORDER 2016 SSI 2016/292

THE SMOKE CONTROL AREAS (AUTHORISED FUELS) (SCOTLAND) REVOCATION REGULATIONS 2016 SSI 2016/293

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 the 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 smoke control areas. Section 21 of the Act allows the Scottish Ministers to make Orders exempting classes of fireplace from section 20, subject to conditions. However section 50 of the Regulatory Reform (Scotland) Act 2014 amended section 21 so that exempt fireplaces can now be included on a list published by the Scottish Ministers. Such fireplaces may be used to burn fuel that is otherwise unauthorised for use in smoke control areas, provided that no or limited smoke is emitted.

It is, however, possible to burn authorised fuel in non exempt fireplaces in smoke control areas. Section 20(6) of the Act allows the Scottish Ministers to declare, by regulations, these authorised fuels. Section 20(6) has been similarly amended as described above so that authorised fuels can now be included on a list published by the Scottish Ministers.

Policy objectives

The Order and Regulations revoke the Smoke Control Areas (Exempted Fireplaces) (Scotland) Order 2014 and the Smoke Control Areas (Authorised Fuels) (Scotland) Regulations 2014 (which listed the exempt fireplaces and authorised fuels), as these are no longer required.

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 and Impact Assessment

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 Energy & Environment 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, which burn mainly wood, and the fuels included on the lists have been tested by Ricardo Energy & Environment 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.

Financial effects

The Cabinet Secretary confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

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Scottish Government
Directorate for Environment & Forestry

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