

EXPLANATORY MEMORANDUM TO

THE SMOKE CONTROL AREAS (AUTHORISED FUELS) (WALES) REGULATIONS 2016

This Explanatory Memorandum has been prepared by the Department for Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2016.

Lesley Griffiths AM
Cabinet Secretary for Environment and Rural Affairs
29 July 2016

(i) Description

The Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2016 (2016 Regulations) amend the Smoke Control Areas (Authorised Fuels)(Wales) Regulations 2015 (SI 2015 No.1517 (W.176)) by amalgamating and adding new fuels to the list of fuels declared to be authorised fuels for the purposes of Part III of the Clean Air Act 1993 (1993 Act). The fuels have been tested and meet British Standard 3841.

(ii) Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

(iii) Legislative Background

The enabling power is contained in section 20(6) of the 1993 Act.

This power was originally conferred on the Secretary of State but was, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999/672. This power is now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

This Statutory Instrument is subject to the negative resolution procedure.

(iv) Purpose and intended effect of the legislation

The 1993 Act (a consolidation of 1956 and 1968 legislation) aims to safeguard public health from emissions of smoke. In particular it empowers local authorities to declare smoke control areas in which it is an offence to emit smoke from chimneys. Households in those areas must use an “authorised” smokeless fuel – electricity, gas, or a solid smokeless fuel – or install an “exempt” appliance capable of burning certain non-authorised smoky fuels (wood, for example) without emitting smoke.

The 1993 Act provides the Welsh Ministers with the power to authorise fuels for use in smoke control areas. These are fuels which have been tested against British Standard 3841 for solid smokeless fuels for domestic use.

Following the specified tests by the Welsh Government’s preferred testing centre, Ricardo-AEA, it is proposed to add 4 new fuels and 2 amended fuels to those which are already authorised. These are detailed below.

ALDI Winter Flame Smokeless Fuel - manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire which–

- a) comprise anthracite (as to approximately 60 to 80% of the total weight), petroleum coke (as to approximately 10 to 30% of the total weight) and a molasses and phosphoric acid binder (as to the remaining weight)
- b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 300°C
- c) are either unmarked pillow-shaped briquettes or, pillow-shaped briquettes marked with a single indented line running longitudinally along each face, off-set from its counterpart by 10 millimetres
- d) have an average weight of either 55 or 80 grams per briquette
- e) have a sulphur content not exceeding 2% of the total weight on a dry basis

Cosyflo Smokeless briquettes manufactured by Arigna Fuels at Arigna, Carrick-on-Shannon, County Roscommon, Ireland, which—

- a) comprise anthracite (as to approximately 35 to 50% of the total weight), petroleum coke (up to approximately 45% of the total weight), bituminous coal (up to approximately 20% of the total weight) and a starch or other organic binder (up to 5% of the total weight)
- b) are manufactured from those constituents by a process involving roll-pressing and heat treatment at approximately 250°C
- c) are unmarked pillow-shaped briquettes that are approximately 80 millimetres in length, 60 millimetres in width and 40 millimetres in height
- d) have an average weight of 110 grams per briquette
- e) have a sulphur content not exceeding 1.8% of the total weight on a dry basis

CPL Restaurant Grade Charcoal - manufactured by Kunfayakun Global Treasures Limited (KGT) at Kunfayakun Stores, No.1, Aranse Street, Station, Sagamu, Orgub State E17, Shagamu International Market, Nigeria which—

- a) Comprises pyrolised Anogeissus Leiocarpus, Burkea Africana, Distemonanthus Benthamianus and Viteloria Paracloxum
- b) Was manufactured using a kiln pyrolysis process at approximately 450°C to 550°C
- c) Are unmarked charcoal pieces of between 50-180 millimetres; and
- d) Has a sulphur content not exceeding 1.9% of the total weight on a dry basis.

Ecoal briquettes (also marketed as Homefire Ecoal briquettes and Supertherm 30), manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which –

- (a) comprise anthracite fines (as to approximately 40 to 65% of the total weight), petroleum coke (as to approximately 20 to 40% of the total weight), bituminous coal (as to approximately 0 to 20% of the total weight), biomass (as to approximately 5 to 20% of the total weight), biomass char (as to approximately 0 to 10% of the total weight) and molasses and phosphoric acid as binder (as to a maximum of 20% of the total weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at approximately 300°C;
- (c) are unmarked pillow shaped briquettes that are typically 72mm in length, 58mm in width and 42mm in height or are unmarked hexagonal briquettes that are typically 70mm in length, 73mm in width and 39mm in height;
- (d) have an average weight of 125 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

Firegold briquettes - manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—

- (a) comprise anthracite (as to approximately 36 to 51% of the total weight), petroleum coke (as to approximately 40 to 55% of the total weight) and an organic binder or a molasses and phosphoric acid binder (as to a maximum of 20% of the total weight);
- (b) were manufactured from those constituents by a process involving roll-pressing;
- (c) are unmarked pillow shaped briquettes that are typically 54mm in length, 58mm in width and 34mm in height;

- (d) have an average weight of 87 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight on a dry basis.

Supertherm 11 briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which –

- a) Comprise anthracite (as to approximately 36 to 51% of the total weight), petroleum coke (as to approximately 40 to 55% of the total weight) and an organic binder or a molasses and phosphoric acid binder (as to the remaining weight);
- b) Were manufactured from those constituents by a process involving roll-pressing;
- c) Are ovoids marked with a single latitudinal line running across one face of each briquette **or unmarked ovoids**;
- d) Have an average weight of 140 grams per briquette; and
- d) Have a sulphur content not exceeding 2% of the total weight on a dry basis.

(v) Implementation

If the Welsh Ministers were not to authorise fuels under section 20(6) of the 1993 Act within a reasonable time, manufacturers, will in practice be unable to market and sell their products effectively within smoke control areas in Wales.

(vi) Consultation

It was not deemed necessary to consult as the Regulations do not amend the regime of smoke control within Wales, but will merely ensure the regime is brought up to date, by adding further fuels to those which are already authorised, for use in smoke control areas. In addition, the 2016 Regulations do not affect policy relating to air quality control.

(vii) Regulatory Impact Assessment

The proposed legislation imposes no costs on the public, private, charities or voluntary sector, therefore no RIA is deemed necessary.