EXPLANATORY MEMORANDUM TO

THE FUEL AND ELECTRICITY (HEATING) (CONTROL) (REVOCATIONS) ORDER 2014

2014 No. 1509

1. This explanatory memorandum has been prepared by Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument revokes an order, and an amending instrument, which prohibited the use of fuel or electricity to heat premises above a specified maximum temperature, subject to certain exceptions. The effect of the revocation is to remove the prohibition.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 This instrument is being made as part of the government's Red Tape Challenge programme, which involves removing and reforming areas of regulation. For more details, see the Policy Background section below.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 This Order is made as a result of the government's 'Red Tape Challenge' programme which sought the views of businesses and the public on the removal and reform of areas of regulation. DECC holds primary responsibility for the 'Red Tape Challenge Energy Theme' under which these revocations are being delivered.

7.2 The Secretary of State no longer considers it to be desirable to control the use of fuel or electricity for heating premises for the purpose of conserving energy as these Orders were instituted during a time of energy insecurity, with these circumstances no longer subsisting. There appears to the Secretary of State to be a lack of awareness of these Orders; and the criminal penalties which exist for failing to adhere to such temperature controls under the Energy Act 1976 (appropriate at a time of energy insecurity) are considered to be disproportionate in today's current energy environment. The prescriptive approach of the Orders and the associated penalties do not align with the Government's wider energy strategy of aiming to assist businesses and individuals by providing targeted solutions to promote energy efficient choices.

- Consolidation

7.3 This is a revocation not a consolidation.

8. Consultation outcome

8.1 As part of the Red Tape Challenge, every few weeks regulations affecting a specific sector or industry (as well as that of general regulations that cuts across sectors) were published by the Cabinet Office online (at this web address: http://www.redtapechallenge.cabinetoffice.gov.uk/home/index/) for the public and stakeholders to suggest how they can be 'scrapped' or 'improved' out of which these Orders were identified.

8.2 There was additional consultation specifically relating to this reform. Over 100 organisations in the UK representing those affected by the Orders, including both consumers and suppliers of energy, were contacted through email, online contact forms and LinkedIn to encourage participation in the consultation. The consultation was made available online (see https://www.gov.uk/government/consultations/repealing-legislation-prescribing-the-maximum-temperature-to-which-particular-premises-may-be-heated) and ran from 28 October to 20 December 2013.

8.3 Eighteen responses were received from local authorities, business owners, building managers, professional bodies, energy specialists and energy organisations encompassing a broad range of views. Just over half of respondents expressed a willingness to retain the measure as the Orders are used as a 'backstop' by business owners and building managers to manage staff requests to alter building temperatures. Some respondents who wished to retain the Orders suggested revisions, including a reconsideration of the maximum temperature. Just under half of respondents supported the Orders' repeal as the purpose of the Orders had passed, or felt there were more important or other pressing energy issues that needed to be considered.

8.4 The Government is revoking the Orders, as the circumstances during which the Orders were introduced are no longer subsisting; there appears to be limited knowledge and consequently, limited adherence to the maximum temperature outlined in the Orders; the criminal penalties associated with the Orders are disproportionate to the offence; and the prescriptive approach of the Orders is contrary to the Government's energy strategy of

providing energy policies and measures which empower individuals and businesses to make energy efficient choices.

9. Guidance

9.1 No guidance has been produced concerning this instrument.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 There will be no monitoring or review of this revocation.

13. Contact

Matthew Willis at the Department of Energy and Climate Change Tel: 030 0068 5182 or email: matt.willis@decc.gsi.gov.uk can answer any queries regarding the instrument.