EXPLANATORY MEMORANDUM TO

THE SMOKE CONTROL AREAS (AUTHORISED FUELS) (ENGLAND) (AMENDMENT) REGULATIONS 2006

2006 No. 1869

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The regulations amend SI 2001/3745 by introducing two additional solid smokeless fuels to the existing authorised fuels listed in Schedule 1 of the SI for use in smoke control areas. The fuels have been tested have been tested by Defra and meet the British Standard tests BS 3841[1] .

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

3.1 None.

4. Legislative Background

4.1 Section 20 of the Clean Air Act 1993 prohibits the emission of smoke in smoke control areas, save from certain "authorised fuels" (these fuels are set out in S.I. 2001/3745, as amended by SI 2002/3046 and SI 2005/2895)

4.2 Sections 20(6) and 63(1) provide that the Secretary of State may authorise fuels for use in smoke control areas and the above regulations are made in exercise of those powers.

5. Extent

5.1 This instrument applies to England.

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

7.1 The Clean Air Act 1993 (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 –

[1] BS 3841: Part 1: 1994. Determination of smoke emission from manufactured solid fuels for domestic use. Part 1. General method for determination of smoke emission rate. ISBN 0 580 21835 X

electricity, gas, or a solid smokeless fuel – or install an "exempt" appliance capable of burning "unauthorised" smoky fuels (house coal, wood, for example) without emitting smoke.

7.2 Since 1956 many local authorities have introduced smoke control areas in the major cities and urban areas. The control which apply in smoke control areas have helped to significantly reduce concentrations of smoke and sulphur dioxide in those parts of the country.

7.3 The Act provides the Secretary of State with power to authorise fuels for use in smoke control areas. These are fuels which have been tested by the Department against the British Standard test for solid smokeless fuels for domestic use. There are presently 38 authorised solid smokeless fuels.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1 Colin McMullen at the Department for Environment, Food and Rural Affairs Tel: 0207 082 8376/8378 or e-mail: colin.mcmullen@defra.gov.uk can answer any queries regarding the instrument.