# EXPLANATORY MEMORANDUM TO

# THE SMOKE CONTROL AREAS (AUTHORISED FUELS) (ENGLAND) (No. 2) REGULATIONS 2014

## 2014 No. 2366

**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. Purpose of the instrument

2.1 This instrument revokes and replaces with amendments the Smoke Control Areas (Authorised Fuels) (England) Regulations 2014 (S.I. 2014/491). It sets out which fuels are authorised for the purposes of Part 3 of the Clean Air Act 1993 and adds four new fuels to the list of authorised fuels. It also amends the description of one existing fuel to cover the current version of this product and makes minor editorial changes to the descriptions of other fuels to improve the clarity and consistency of the Schedule.

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

3.1 None.

## 4. Legislative Context

4.1 Section 20 of the Clean Air Act 1993 prohibits the emission of smoke from chimneys in smoke control areas, save from certain "authorised fuels". It is a defence to a charge of emitting smoke if you can show you used an authorised fuel.

4.2 Section 20(6) of the 1993 Act provides that the Secretary of State may authorise fuels for use in smoke control areas by regulations and these Regulations are made in exercise of those powers.

4.3 These Regulations add four new fuels to the list of authorised fuels as follows:

Brazier briquettes, manufactured by Coal Products Limited

G N Grosvenor (Fuel Express) Restaurant Charcoal manufactured by Pabensa S.A.

Newburn briquettes (also marketed as HouseFuel Burnrite), manufactured by M&G Solid Fuels LLP

Pagan Fuel's Restaurant Charcoal manufactured by Pabensa S.A.

They also amend the description of one existing fuel as follows:

> Supertherm II briquettes, manufactured by Coal Products Limited. These were previously described as 'unmarked ovoids' and are now described as 'ovoid-shaped briquettes that are either unmarked or marked with a single latitudinal line running across one face of each briquette'. This product was previously sold as unmarked ovoid-shaped briquettes but is now sold with the markings described. This amendment will extend this authorisation to cover the current marked version of this product.

Minor editorial changes are also made to the descriptions of other fuels to ensure clarity and consistency.

## 5. Territorial Extent and Application

5.1 This instrument applies to England.

## 6. European Convention on Human Rights

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 The Clean Air Act 1993 (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 "unauthorised" smoky fuels (house coal or 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 controls 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.

7.4 This instrument revokes and replaces with amendments the Smoke Control Areas (Authorised Fuels) (England) Regulations 2014. It updates the list of fuels that are "authorised fuels" by adding four additional fuels to the list. It also amends the description of one existing fuel to extend this

authorisation to the current version of this product and makes minor editorial changes to the descriptions of other fuels to improve the clarity and consistency of the Schedule.

## 8. Consultation outcome

8.1 No consultation is necessary as this does not impose any burdens but is merely the result of technical analysis of the fuel on behalf of the manufacturer. This instrument does not amend the Clean Air Act 1993 but simply revokes and replaces with amendments the Smoke Control Areas (Authorised Fuels) (England) Regulations 2014.

## 9. Guidance

9.1 Guidance on smoke control can be found on the Gov.uk website at https://www.gov.uk/smoke-control-area-rules

9.2 A list of fuels which are authorised can be found on the Defra smoke control website at http://smokecontrol.defra.gov.uk/fuels.php

## 10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it has no adverse impact on business, charities or voluntary bodies. Businesses are likely to benefit financially as they would have the opportunity to market their authorised fuels in Smoke Control Areas.

There is no adverse impact on the public sector. Local authorities will continue to fulfil their responsibilities for local air quality management although there is a possible reduction in administrative burden as a result of local authorities being updated and better informed of the most recent authorised fuels.

## 11. Regulating small business

11.1 This instrument regulates the authorisation of fuels for use in Smoke Control Areas. It does not regulate small businesses.

Small firms employing up to 20 people are can benefit from the legislation as set out in section 10.1.

## 12. Monitoring and review

12.1 The order containing the schedule of authorised fuels is usually revoked and replaced twice a year to include new authorised fuels and amendments to fuels already authorised.

## 13. Contact

Bridget Haughan at the Department for Environment, Food and Rural Affairs. Tel: 020 7238 3391 or e-mail: bridget.haughan@defra.gsi.gov.uk can answer any queries regarding this instrument.