# EXECUTIVE NOTE

# THE SMOKE CONTROL AREAS (EXEMPT FIREPLACES) (SCOTLAND) ORDER 2009 SSI 2009/214

## 1. 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 control areas. However, section 21 of the Act enables the Scottish Ministers to make Orders exempting fireplaces (subject to conditions) from the provisions of section 20 of the Act so that such fireplaces may burn unauthorised fuels in smoke control areas, provided that no smoke, or only limited smoke, is emitted.

This is a routine, non-controversial Order, which is technical in nature. The instrument is subject to negative resolution procedure.

## 2. Policy Objectives

The Order will allow manufacturers to place these particular fireplaces on the market for use in smoke control areas. There will be no adverse impact on air quality. The majority of the fireplaces have already been exempted by previous Orders. The Smoke Control Areas (Exempt Fireplaces) (Scotland) (No 2) Order 2008 consolidated several of these previous Orders, in addition to exempting several new fireplaces, to make it easier to identify exempt appliances. The current Order completes this process by revoking all other existing Orders not covered by the 2008 Order, plus the 2008 Order itself, resulting in one single SSI to cover all exempt fireplaces. In addition further new fireplaces are added to those already exempted. The newly exempted fireplaces are at entries 6, 52, 53, 62, 78, 93, 106, 118, 123, 124, 131, 132, 142, 146, 155, 163 and 167. Those at 6, 52, 62, 93, 123, 124, 142 and 146 have previously been exempted in England and Wales but not in Scotland.

The Order 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.

## 3. Consultation

On application for exemptions, technical experts at AEA Technology are consulted in order to test the appliances. Only those appliances which comply with inspection criteria, when used under specified conditions, are recommended for use in smoke control areas.

The fireplaces named in the Order, which burn mainly wood, have been tested by AEA Technology on behalf of the Scottish Government and recommended for exemption. All

models have passed the British Standard tests for smokeless operation. The Order will permit the manufacturers of these fireplaces to place them on the market for use in smoke control areas.

## 4. Effects of the Order

The Order will have no negative environmental impact, and has no socio-economic implications. It will merely permit the use of the specified fireplaces within certain areas, subject to conditions as to the fuels which may be burned.

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