EXPLANATORY MEMORANDUM TO

THE SMOKE CONTROL AREAS (EXEMPTED FIREPLACES) (ENGLAND) (No. 2) ORDER 2014

2014 No. 2404

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 allows the use (subject to strict conditions) of a number of wood burning boilers and stoves capable of smokeless operation within smoke control areas. These fireplaces do not burn the fuels generally authorised for use in such areas, and consequently have been assessed by Defra and are considered to be capable of meeting, or have met, the requirements of BS PD 6434 'Recommendations for the design and testing of smoke reducing solid fuel burning domestic appliances' published by BSI.

2.2 This instrument revokes and replaces with amendments the Smoke Control Areas (Exempted Fireplaces) (England) Order 2014 (S.I. 2014/504).

A number of additional fireplaces have been added to the list of “exempted” fireplaces and amendments have been made to the details of some fireplaces already on the list.

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”.

4.2 However, section 21 of the 1993 Act provides that the Secretary of State may, by order, exempt specified classes of fireplace from the provisions of section 20 if satisfied that they can be used for burning fuel other than authorised fuels without producing any, or a substantial quantity of, smoke. This instrument is made in exercise of those powers.

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 exempt fireplaces for use in smoke control areas. These are fireplaces which have been tested by the Department and show that they can be used for burning fuel other than authorised fuels without producing any, or a substantial quantity of, smoke.

7.4 This instrument revokes and replaces with amendments the Smoke Control Areas (Exempted Fireplaces) (England) Order 2014. It updates the list of fireplaces that are "exempted" appliances by adding a number of additional fireplaces to the list, and amending the details of some of the fireplaces already listed.

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 fireplace 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 (Exempted Fireplaces) (England) Order 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 fireplaces which are exempted can be found on the Defra smoke control website at http://smokecontrol.defra.gov.uk/appliances.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 exempt appliances 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 exempt appliances.

11. Regulating small business

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

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

12. Monitoring and review

12.1 The order containing the schedule of exempted fireplaces is usually revoked and replaced twice a year to include new fireplace exemptions and amendments to fireplaces already exempted.

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.