EXPLANATORY MEMORANDUM TO

THE SMOKE CONTROL AREAS (EXEMPTED FIREPLACES) (ENGLAND) ORDER 2008

2008 No. 515

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 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.

2.2 This instrument revokes and replaces with amendments the Smoke Control Areas (Exempted Fireplaces) (England) Order 2007. A number of additional fireplaces have been added to the list of "exempted" fireplaces.

3. Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select 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 from chimneys in smoke control areas, save from certain "authorised fuels".

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

5. Territorial Extent and Application

5.1 This instrument applies in 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 (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 The list of fireplaces in the instrument that are "exempted" appliances needs to be updated, which this instrument effects.

8. Impact

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

9. Contact

9.1 Jonathan Lartice at the Department for Environment, Food and Rural Affairs Tel: 020 7238 1674 or e-mail: jonathan.lartice@defra.gsi.gov.uk can answer any queries regarding the instrument.