

**EXPLANATORY MEMORANDUM TO**  
**THE SMOKE CONTROL AREAS (AUTHORISED FUELS) (WALES)**  
**REGULATIONS 2015**

This Explanatory Memorandum has been prepared by the Department for Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

**Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2015.

**Carl Sargeant**

**Minister for Natural Resources**

**8 July 2015**

**(i) Description**

These Regulations amend the Smoke Control Areas (Authorised Fuels)(Wales) Regulations 2014 (SI 2014 No. 684 (W.74)) by amalgamating and adding new fuels to the list of fuels declared to be authorised fuels for the purposes of Part III of the Clean Air Act 1993. The fuels have been tested and meet British Standard 3841.

**(ii) Matters of special interest to the Constitutional and Legislative Affairs Committee**

None

**(iii) Legislative Background**

The power enabling this Instrument to be made is contained in section 20(6) of the Clean Air Act 1993.

This power was originally conferred on the Secretary of State but was, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for

Wales (Transfer of Functions) Order 1999. This power is now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

This Statutory Instrument is subject to the negative resolution procedure.

#### **(iv) Purpose and intended effect of the legislation**

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 certain non-authorised smoky fuels (wood, for example) without emitting smoke.

The Act provides the Welsh Ministers with the power to authorise fuels for use in smoke control areas. These are fuels which have been tested against British Standard 3841 for solid smokeless fuels for domestic use.

Following the specified tests by the Welsh Government’s preferred testing centre, Ricardo-AEA Limited; it is proposed to add 8 new fuels and 1 amended fuel to those which are already authorised. These are detailed below.

Brazier briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which –

- a) Comprise anthracite (as to approximately 60 to 80% of the total weight), petroleum coke (as to approximately 10 to 30% of the total weight), and a molasses and phosphoric acid binder (as to the remaining weight);
- b) Were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 300°C;
- c) Are either unmarked pillow-shaped briquettes or, pillow-shaped briquettes marked with a single indented line running longitudinally along each face, off-set from its counterpart by 10 millimetres;
- d) Have an average weight of either 55 or 80 grams per briquette; and
- e) Have a sulphur content not exceeding 2% of the total weight on a dry basis.

Direct Charcoal Blue Bag Premium Grade Restaurant Charcoal manufactured by Direct Charcoal at Ekamanzi Road, Dalton, KwaZulu Natal, Rep of South Africa which–

- (a) Comprise pyrolised Acacia Mercii wood;
- (b) were manufactured using a kiln pyrolysis process at approximately 420 to 480°C;
- (c) are unmarked charcoal pieces of between 30mm to 150mm; and
- (d) have a sulphur content not exceeding 2 per cent of the total weight.

Direct Charcoal Blue Bag Restaurant Charcoal manufactured by Direct Charcoal Limited at Ruta 25, km. 9,5 –Pilar (cp.1629) Buenos Aires, Argentina which–

- (a) Comprise pyrolised white Quebracho and Guayacan wood;
- (b) were manufactured using a kiln pyrolysis process at approximately 420 to 480°C;
- (c) are unmarked charcoal pieces of between 30mm to 150mm; and

(d) have a sulphur content not exceeding 2 per cent of the total weight.

G N Grosvenor (Fuel Express) Restaurant Charcoal manufactured by Pabensa S.A. Aviadores del Chaco, Asuncion, Paraguay, which –

- a) Comprises pyrolised Prosopsis Nigra, Cordia Alliodora, Centrolobium, Prosopsis kuntzei, Caesalpinia, Goncalo alves and Tabebuia hardwoods
- b) Was manufactured using a kiln pyrolysis process at approximately 800°C;
- c) Are unmarked charcoal pieces of between 20-120 millimetres; and
- d) Has a sulphur content not exceeding 2% of the total weight on a dry basis.

HouseFuel Smokeless Ovals, manufactured by Maxibrite Limited at Llantrisant, Rhondda Cynon

Taf, which—

- (a) comprise anthracite fines (as to approximately 84% of the total weight), petroleum coke (as to approximately 12% of the total weight) and starch as binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 260°C;
- (c) are unmarked pillow-shaped briquettes;
- (d) have an average weight of 78 grams per briquette; and
- (e) have a sulphur content not exceeding 2% of the total weight.

HouseFuel Smokeless Ovals, manufactured by Maxibrite Limited at Mwyndy Industrial Estate,

Llantrisant, Mid Glamorgan, which—

- (a) comprise bituminous coal and petroleum coke (each as to approximately 10 to 15% of the total weight) and anthracite duff and starch binder (as to the remaining weight);
- (b) were manufactured from those constituents by a process involving roll-pressing and heat treatment at about 260°C;
- (c) are unmarked pillow-shaped briquettes with approximate maximum dimensions 68mm, 63mm and 38mm;
- (d) have an average weight of 110 grams per briquette; and
- (e) have a sulphur content not exceeding 1.9% on a dry basis.

(These Fuels are a rebrand of existing authorised fuels manufactured by Maxibrite Limited (Newflame and Newflame Plus) – Ricardo-AEA are satisfied that the fuels are suitable for authorisation.)

Newburn briquettes, manufactured by M&G Solid Fuels LLP, Wilton International, Wilton, Middlesbrough, TS90 8WS which—

- a) Comprise petroleum coke (as to approximately 56 to 57 per cent of the total weight), anthracite (as to approximately 37 to 38 per cent of the total weight), and a dry powder binder (as to the remaining weight);
- b) Were manufactured from those constituents by a cold cure process using roller press;
- c) Are unmarked pillow shape briquette 70mm x 62mm x 42mm;
- d) Have an average weight of 110 grams per briquette; and
- e) Have a sulphur content not exceeding 2 per cent of the total weight.

Pagan Fuel's Restaurant Charcoal manufactured by Pabensa S.A. Aviadores del Chaco, Asuncion, Paraguay, which –

- a) Comprises pyrolised Prosopsis Nigra, Cordia Alliodora, Centrolobeum, Prosopsis kuntzei, Caesalpinia, Goncalo alves and Tabebuia hardwoods;
- b) Was manufactured using a kiln pyrolysis process at approximately 800°C;

- c) Are unmarked charcoal pieces of between 20-120 millimetres; and
- d) Has a sulphur content not exceeding 2% of the total weight on a dry basis.

Supertherm 11 briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which –

- a) Comprise anthracite (as to approximately 36 to 51% of the total weight), petroleum coke (as to approximately 40 to 55% of the total weight) and an organic binder or a molasses and phosphoric acid binder (as to the remaining weight);
- b) Were manufactured from those constituents by a process involving roll-pressing;
- c) Are ovoids marked with a single latitudinal line running across one face of each briquette;
- d) Have an average weight of 140 grams per briquette; and
- d) Have a sulphur content not exceeding 2% of the total weight on a dry basis.

### **(v) Implementation**

If the Welsh Ministers were not to authorise fuels under sections 20(6) of the Clean Air Act 1993 within a reasonable time, manufacturers would not in practice be able to market and sell their products effectively within smoke control areas in Wales.

### **(vi) Consultation**

It was not deemed necessary to consult as the Regulations do not amend the regime of smoke control within Wales, but will merely ensure the regime is brought up to date, by adding further fuels to those which are already authorised, for use in smoke control areas. In addition, the Regulations do not affect policy relating to air quality control.

### **(vii) Regulatory Impact Assessment**

The proposed legislation imposes no costs on the public, private, charities or voluntary sector, therefore no RIA is deemed necessary.