

**EXPLANATORY MEMORANDUM TO
THE SMOKE CONTROL AREAS (EXEMPTED FIREPLACES) (ENGLAND)
ORDER 2005**

2005 No. 2304

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 The order allows the use (subject to strict conditions) of nine wood fuelled fireplaces within smoke control areas. These fireplaces do not burn the fuels generally authorised for use in such areas, and consequently have been tested by Defra and meet the British Standard tests (BS PD 6434) for smokeless operation.

2.2 The order also makes minor amendments to a previous order (S.I. 1999/1515) to reflect subsequent minor changes to the description of a fireplace in that order.

3. Matters of special interest to the Joint 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 in smoke control areas, save from certain “authorised fuels” (these fuels are set out in S.I. 2001/3745, as amended).

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 she is satisfied that they can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke and the above order is made in exercise of this power.

5. Extent

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

5. The Clean Air Act 1993 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, wood, for example) without emitting smoke.

The Act provides the Secretary of State with power to exempt by order any class of fireplaces and stoves from the controls which would otherwise apply to enable people to burn specified unauthorised fuels in smoke control areas in England where the Secretary of State is satisfied that the burning of these fuels will not produce smoke or a substantial quantity of smoke. Since 1970, over 50 fireplaces have been granted exemptions.

8. Impact

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

9. Contact

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