

## **EXPLANATORY MEMORANDUM**

### **THE SMOKE CONTROL AREAS (AUTHORISED FUELS) (WALES) REGULATIONS 2017**

This Explanatory Memorandum has been prepared by the Department for Environment and Rural Affairs 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 2017.

**Carwyn Jones**  
**First Minister of Wales**  
**17 March 2017**

**(i) Description**

The Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2017 (“the 2017 Regulations”) revoke and replace the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2016 (SI 2016 No.812 (W.202)). The 2017 Regulations update the legislative regime with those fuels newly authorised for the purposes of Part III of the Clean Air Act 1993 (“the 1993 Act”).

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

None

## **(iii) Legislative Background**

The enabling power is contained in section 20(6) of the 1993 Act.

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 1999/672. 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 1993 Act (a consolidation of 1956 and 1968 legislation) aims to safeguard public health from emissions of smoke. 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 or use an “exempt” appliance capable of operating without emitting smoke, regardless of the fuel used.

The 1993 Act provides the Welsh Ministers with the power to authorise fuels and appliances for use in smoke control areas. Authorised fuels are prescribed in regulations.

The following fuels have been newly approved as suitable for inclusion on the list of fuels authorised for use in smoke control areas. They are therefore included in the schedule to the 2017 Regulations, alongside fuels previously authorised. The 2017 Regulations revoke and replace The Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2016, providing a consolidated, up-to-date list of authorised fuels.

Newly authorised fuels:

Big K Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, The Netherlands which–

- a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight)
- b) were manufactured from those constituents by a process of mixing and extruding
- c) are firelogs that are approximately 172 millimetres in length and 75 millimetres in depth, 75 millimetres in height with 6 grooves
- d) have an average weight of 0.8 kilograms per firelog
- e) have a sulphur content not exceeding 0.1% of the total weight.

Big K Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, The Netherlands which–

- a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight)
- b) were manufactured from those constituents by a process of mixing and extruding
- c) are firelogs that are approximately 193 millimetres in length and 75 millimetres in depth, 75 millimetres in height with 6 grooves
- d) have an average weight of 0.9 kilograms per firelog
- e) have a sulphur content not exceeding 0.1% of the total weight.

Big K Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, The Netherlands which–

- a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight)
- b) were manufactured from those constituents by a process of mixing and extruding
- c) are firelogs that are approximately 215 millimetres in length and 75 millimetres in depth, 75 millimetres in height with 6 grooves
- d) have an average weight of 1 kilograms per firelog
- e) have a sulphur content not exceeding 0.1% of the total weight.

Gardeco Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, The Netherlands which–

- a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight)
- b) were manufactured from those constituents by a process of mixing and extruding
- c) are firelogs that are approximately 172 millimetres in length and 75 millimetres in depth, 75 millimetres in height with 6 grooves
- d) have an average weight of 0.8 kilograms per firelog
- e) have a sulphur content not exceeding 0.1% of the total weight.

Gardeco Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, The Netherlands which–

- a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight)
- b) were manufactured from those constituents by a process of mixing and extruding
- c) are firelogs that are approximately 237 millimetres in length and 75 millimetres in depth, 75 millimetres in height with 6 grooves
- d) have an average weight of 1.1 kilograms per firelog
- e) have a sulphur content not exceeding 0.1% of the total weight.

Homefire Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, The Netherlands which–

- a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight)
- b) were manufactured from those constituents by a process of mixing and extruding
- c) are firelogs that are approximately 172 millimetres in length and 75 millimetres in depth, 75 millimetres in height with 6 grooves
- d) have an average weight of 0.8 kilograms per firelog
- e) have a sulphur content not exceeding 0.1% of the total weight.

Homefire Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, The Netherlands which–

- a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight)
- b) were manufactured from those constituents by a process of mixing and extruding
- c) are firelogs that are approximately 215 millimetres in length and 75 millimetres in depth, 75 millimetres in height with 6 grooves
- d) have an average weight of 1 kilograms per firelog
- e) have a sulphur content not exceeding 0.1% of the total weight.

Hot Rocks manufactured by EU Zeme Limited at Riga, Eksporta Street 15, LV-1045, Latvia which–

- a) comprise crushed anthracite (as to approximately 73% of the total weight), bituminous coal (as to approximately 18% of the total weight) and a molasses and orthophosphoric acid binder (as to the remaining weight)
- b) were manufactured from those constituents by a process involving roll-pressing followed by heat treatment at a temperature of approximately 250 to 280°C
- c) are almost round pillow-shaped briquettes that are 40 millimetres in diameter and about 21 millimetres thick at the centre of the briquette
- d) have an average weight of 23 grams per briquette
- e) have a sulphur content not exceeding 0.5% of the total weight.

La Hacienda Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, The Netherlands which–

- a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight)
- b) were manufactured from those constituents by a process of mixing and extruding
- c) are firelogs that are approximately 172 millimetres in length and 75 millimetres in depth, 75 millimetres in height with 6 grooves
- d) have an average weight of 0.8 kilograms per firelog
- e) have a sulphur content not exceeding 0.1% of the total weight.

La Hacienda Fire Log manufactured by Top Flames Europe BV, Rustenburgerweg 3, 1646 WJ Ursem Gem, Alkmaar, The Netherlands which–

- a) comprise 29% paraffin wax, 20% plant derived wax, 17% 6mm diameter wood pellets and 34% sawdust (by weight)
- b) were manufactured from those constituents by a process of mixing and extruding
- c) are firelogs that are approximately 237 millimetres in length and 75 millimetres in depth, 75 millimetres in height with 6 grooves
- d) have an average weight of 1.1 kilograms per firelog
- e) have a sulphur content not exceeding 0.1% of the total weight.

Red Drops manufactured by EU Zeme Limited, Lāčplēša street 48, Rīga, LV-1011, Latvia which–

- a) comprise crushed anthracite (as to approximately 73% of the total weight), bituminous coal (as to approximately 18% of the total weight) and a molasses and orthophosphoric acid binder (as to the remaining weight)
- b) were manufactured from those constituents by a process involving roll-pressing followed by heat treatment at a temperature of approximately 250 to 280°C
- c) are almost round pillow-shaped briquettes that are 40 millimetres in diameter and about 21 millimetres thick at the centre of the briquette
- d) have an average weight of 23 grams per briquette
- e) have a sulphur content not exceeding 0.5% of the total weight.

## **(v) Implementation**

Updating the lists of authorised fuels in the Regulations will ensure the legislation keeps pace with the development of new smokeless fuels, making them available to households in Smoke Control Areas.

Air quality can have fundamental impacts on human health, affecting both the quality and duration of peoples' lives. A more effective air quality regime will have an important contributory impact in terms of the goals of "A healthier Wales" under the Well-being of Future Generations (Wales) Act 2015.

#### **(vi) Consultation**

It was not considered appropriate to publicly consult on the 2017 Regulations as they leave the nature of the smoke control regime in Wales unchanged. The 2017 Regulations merely update the list of fuels authorised for use within Smoke Control Areas.

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

The 2017 Regulations impose no costs on the public, private, charities or voluntary sector, therefore no RIA is deemed necessary.