

SL(5)301 – The Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2019

Background and Purpose

These Regulations revoke and replace with amendments the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2017 (S.I. 2017/421 (W. 89)).

Section 20 of the Clean Air Act 1993 Act (“the 1993 Act”) provides that it is an offence to emit smoke from a chimney of a building or a chimney serving a furnace of a fixed boiler or an industrial plant, if that chimney is within a smoke control area. However, by virtue of section 20(3), it is a defence to prove that the alleged emission was caused solely by the use of an authorised fuel.

By virtue of section 20(6), “authorised fuel” means a fuel declared by regulations to be an authorised fuel. The power to make such regulations is exercisable in relation to Wales by the Welsh Ministers.

These Regulations specify all fuels which are currently authorised for use in smoke control areas in Wales for the purposes of section 20 of the 1993 Act.

Procedure

Negative

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 (vii) (differences between the Welsh and English texts) in respect of this instrument.

In paragraph 71(c) of the Schedule, the English text specifies a size of “between approximately 30 millimetres and 130 millimetres in length”. The corresponding Welsh text specifies a range of 30-150 millimetres.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

18 January 2019

