

<b>Title:</b> Streamlining Smoke Control Orders for exempt fireplaces and authorised fuels <b>IA No:</b> <b>Lead department or agency:</b> Defra <b>Other departments or agencies:</b> SEERAD Welsh Government DOENI	<b>Impact Assessment (IA)</b>		
	<b>Date:</b>		
	<b>Stage:</b> Development/Options		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Primary legislation		
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<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> RPC Opinion Status
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£m	£m	£m	Yes/No
			In/Out/zero net cost

**What is the problem under consideration? Why is government intervention necessary?**

The Clean Air Act safeguards air quality by prohibiting smoke emissions in smoke controls areas unless using an authorised fuel or exempt appliance. Currently an exemption is obtained following an assessment by Defra's technical advisors and subsequent listing in 6 monthly smoke control statutory instruments which creates delays in the approvals process and burdens for industry and government. Therefore as part of Governments Red Tape Challenge a commitment was made to simplify the current process for authorising fuels and exempting fireplaces for use in smoke control areas as designated by the Clean Air Act.

**What are the policy objectives and the intended effects?**

To amend the Clean Air Act via the new Deregulation Bill to grant SoS powers to authorise the use of fuels and fireplaces administratively by the publication of a list on gov.uk website. No changes are to be made to the exemption process and the same technical standards will apply. This change will reduce any delay in realising the benefits from innovations allowing consumers access to the latest technology and manufacturers to benefit from any efficiency gains.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 0. Do nothing - this represents the status quo or business as usual. The production of the Smoke Control Regulations and Orders will continue to be burdensome to Government and create delays for industry in releasing their products to market and therefore recouping the cost of development.

Option 1. Amend the CAA via the Deregulation Bill to provide the SoS with powers to authorise fuels and exempt appliances administratively by the publication of a list on gov.uk website. . This is the preferred option as it would allow products to be marketed almost immediately after receiving approval therefore reducing burdens to industry. It will also negate the need for Government to produce burdensome SIs.

<b>Will the policy be reviewed?</b> It will/will not be reviewed. <b>If applicable, set review date:</b> Month/Year					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> No	<b>Small</b> Yes/No	<b>Medium</b> Yes/No	<b>Large</b> Yes/No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> None		<b>Non-traded:</b> None

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible SELECT SIGNATORY: \_\_\_\_\_ Date: \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Streamlining Smoke Control Orders for exempt fireplaces and authorised fuels

## FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £172,154	High: £895,737	Best Estimate: £533,946

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	0	0

### Description and scale of key monetised costs by 'main affected groups'

No additional costs incurred by industry or Government

### Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	£20,000	£172,154
High	0	£104,063	£895,737
Best Estimate	0	£162,031	£533,946

### Description and scale of key monetised benefits by 'main affected groups'

Social benefits from consumers and manufacturers being able to realise benefits of technological progress reducing production costs and improving functionality.  
Government will not be required to produce 6 monthly SIs saving 2.5k [ROALD TO CHECK FIGURE] per annum

### Other key non-monetised benefits by 'main affected groups'

It is considered unlikely that there will be significant changes in the price of appliances or fuels for the consumer but product choice may be slightly increased.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

The key assumptions are:

- \* the long term rate of technological progress is assumed at five per cent per annum.
- \* the useful life of these technologies, assumed at ten years.
- \* it is assumed that five percent of this technology would be using new products.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO? Yes/No	Measure qualifies as IN/OUT/Zero net cost
Costs:	Benefits:	Net:		

# Evidence Base (for summary sheets)

## **Background**

The Clean Air Act was introduced in 1956 after a Government report into the great smog of 1952 which were caused by the widespread burning of coal and were blamed for the premature deaths of hundreds of people in the UK. The Act aims to control emissions of dark smoke, grit, dust and fumes from industrial premises and furnaces and to give Local Authorities power to designate and control “smoke control areas” (SCAs) in which it is an offence to emit smoke unless using a fuel or appliance assessed as operating smokelessly and thus approved for use in a SCA. Currently exempted appliances and authorised fuels are listed in two Statutory Instruments, which are usually updated twice yearly. Manufacturers obtain a listing in the regulations by submitting their products for testing; the results are then assessed by Defra technical advisors for a fee, who subsequently make recommendations for inclusion in the legislation. Defra hosts current lists of fuels and fireplaces on the website.

## **Problem under consideration & rationale for intervention**

As part of Government's RTC a commitment was made to simplify the process for authorising fuels and exempting appliances with the aim of reducing burdens for industry LAs and Government whilst protecting air quality.

Since the introduction of SCAs there has been a significant increase in the number of manufacturers' and suppliers seeking exemption for wood-burning appliances. This is mainly as a result of rising gas prices and the Government's drive to increase the uptake of sustainable fuels. As a result, the twice-yearly compilation of the Regulations and Orders has become administratively cumbersome. Feedback from industry indicated that the cost of assessment by technical advisors was not considered a significant burden, however the delay between testing the new product and obtaining a listing in one of the 6 monthly SIs presented more of a problem in terms of getting a product to market and recouping development costs..

## **Current Legislation**

Clean Air Act 1993

Part III – Contains the provisions relating to smoke control areas, exemption of appliances and authorised fuels. There are over 30 associated regulations in force in England that provide details of exempt appliances and authorised fuels.

Section 20 of the 1993 Act prohibits within a smoke control area: a) the emission of smoke from a chimney of any building and b) the emission of smoke from any chimney serving the furnace of any fixed boiler or industrial plant.

Under Section 20(4) of the Act, there is a defence “to prove that the alleged emission was not caused by the use of any fuel other than an authorised fuel”. The Secretary of State may declare under s20(6) a fuel to be authorised. Section 20(5) provides for fine up to level 3 (at present £1,000) on successful prosecution.

Under Section 21 of the Act, the Secretary of State may make an order exempting any class of fireplace from the Section 20 provisions if he is “satisfied that such fireplaces can be used for burning fuel other than authorised fuels without producing any smoke or a substantial quantity of smoke”. Exemptions can be subject to conditions specified in the order.

## **Current implementation of Sections 20 and 21**

Regulations and orders are regularly made by the Secretary of State. Each fireplace and fuel is separately listed in the relevant instrument by means of amendment of the previous regulations or order.

The procedure by which a manufacturer or supplier can obtain a listing in the regulations or order involves submitting a case to Defra's technical advisers (currently Ricardo AEA) that, in essence, the authorised fuel can burn smokelessly, or the fireplace can operate without producing any smoke or a substantial quantity of smoke when operating in accordance with specified conditions (such as

conditions as to the type of fuel that may be burned). Ricardo AEA make recommendations to the Secretary of State as to which fuels/fireplaces can be added to the relevant instrument. Lists of approved fuels and appliances appear on Defra smoke control pages of the website.

In practice, Ricardo AEA apply particular, long-standing technical criteria to test whether any fuel or fireplace will meet the criteria in Sections 20 or 21 of the Act. Manufacturers and suppliers must submit applications to them. Ricardo AEA charge a fee for considering each application. Ricardo AEA also provide limited pre-application advice, the first hour of which is funded by Defra.

### **Policy objective**

The current arrangements have a number of disadvantages:

- a) manufacturers and suppliers have to wait for the next set of regulations or order before they can market their fuel or fireplace for use in a smoke control area. If, for whatever reason, the Defra contractors are unable to process an application in time for a particular instrument, the business is faced with a further 6-month delay.
- b) the production and update of regulations and an order with a list of every approved fireplace and fuel is cumbersome and time consuming.

The intention is to amend Sections 20 and 21 of the Clean Air Act 1993 to enable the SoS to publish a list of authorised fuels and exempted fireplaces on gov.uk website without the requirement for Statutory Instruments. No change is planned to the criteria and standards currently applied by Defra contractors and once Ricardo AEA have confirmed the products acceptance the published list will be updated with the product details.

### **Description of options considered (including do nothing)**

#### **Option 0 – Do nothing**

There has been a steady increase in the number of applications to exempt appliances for use in Smoke Control Areas. This is a result of the public demand for wood-burning appliances for use in Smoke Control areas due to the increase in gas prices. Coupled with the Government's drive to use sustainable fuels we can expect this trend to continue. Businesses would continue to need to wait for the next 6 monthly Regulations or Orders before they can market their appliances for use in Smoke Control areas which is an unnecessary burden for them and also limits consumer choice. Production of the Statutory Instruments would become even more burdensome and there is a risk of human error creeping in whereby recommendations in the SI may be overlooked which could result in an appliance having to wait for a further six-months before receiving exemption.

#### **Option 1 Remove the requirement for approved fuels and exempted fireplaces to be listed in six monthly SIs and amend the CAA to give Secretary of State power to publish the list of products administratively**

This is the preferred option (and has been agreed by Ministers) as it reduces burdens for both Industry and Government. Manufacturers would still be required to demonstrate that their products met emissions standards thereby safeguarding air quality. By amending the CAA to permit the SoS to publish a list of authorised/exempted products as required this will provide a quicker route to market and therefore reduced burdens on Industry which are currently created by extensive lead-in times between product testing and exemption. It would also provide administrative savings within Defra by negating the requirement for six-monthly SIs.

## Monetised and non-monetised costs and benefits of each option (including administrative burden)

### Option 0 –

Continued cost to manufacturers of having their appliances and fuels test house data scrutinised by the Defra contractors.

The missed consumer and industry benefits of not being able to market their appliances in between the two six-monthly commencement dates. Interest accrued by delay in recouping product development costs.

Continued cost to Defra under the Clean Air Contract and admin effort to produce the twice-yearly orders.

These costs represent the baseline against which Option 1 is compared.

### Option1

#### Costs

No change in cost to manufacturers of having their appliances tested and assessed by technical advisors

#### Benefits

The key benefits of this option are the social benefits of allowing new products to market sooner. This is expected to benefit consumers of these technologies who are able to benefit from technological improvements. It is also expected to benefit industry by reducing the delay in realising efficiency improvements in the productive process with new products.

Across the UK 175,000 room heaters and 2,000 biomass boilers are sold each year.

With room heaters are estimated to retail at between £400 and £2,500 each and biomass boilers at between £7,000 and £25,000 this places the value of this market at between £84 - £488 million per annum. However, only a minority of this market will be affected by these changes. Based on expert judgement it is estimated that only 5% of these technologies in smoke control areas would be newly exempted models. This places the value of the impacted market at between £4 – £24 million per annum.

The benefit to this market has been calculated based on the rate of technological improvement and the additional speed at which the technologies arrive on the market. The technological improvements are intended to reflect all the progress in the technology including improvements in functionality, design, efficiency, operation and cost reductions. In relation to the rate of improvement a small but noticeable change of two per cent per year has been assumed. This figure has been used to provide an indicative estimate as changes below this level are unlikely to be noticeable and hence it is improbable they would be brought to market for much smaller changes. It is further assumed that on average removing the release restriction would increase speed to market by two and a half months. This improvement is based on moving from two annual releases to a relatively steady release pattern over the year.

In addition there are expected to be administration savings by Defra for admin and legal input for producing the twice yearly SIs. The 4 days (HEO), 3 days (SEO), 5 days (G6 lawyer) = approx £2,500

Using this approach it the benefits of this option are presented in table 1 below.

Table 1: Benefits of Option 1.

	Annual benefits			Net present value
	Social	Government	Total	
Low	£17,500	£2,500	£20,000	£172,154
High	£101,563	£2,500	£104,063	£895,737
Average	£59,531	£2,500	£62,031	£533,946

## Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)

The net financial benefits of this change is considered to be low therefore the level of analysis performed is proportional to this the level of anticipated change

## Risks and assumptions

This proposal may be criticised on the grounds that it reduces parliamentary scrutiny of the process of authorising fuels and exempting fireplaces. This could give rise to controversy because whether a fuel/fireplace is authorised/ exempt can determine whether offences have been committed under sections 20 and 23 of the Clean Air Act 1993. The Department's justification for this proposal is that the authorisation/exemption process will remain essentially unchanged with the same testing being carried out. Authorisations/exemptions will continue to be available on Defra's website. The Department would also point to analogous provisions in other legislation e.g. Section 1 of Ancient Monuments and Archaeological Areas Act 1979 requires the Secretary of State to compile and maintain a schedule of monuments of national importance. The consequence of including a monument in the schedule is that various provisions in the Act apply to that monument including provisions making it an offence to allow certain works to be performed on scheduled monuments unless the works are authorised under the Act

### **Summary and preferred option with description of implementation plan**

It is proposed to streamline the process for authorising fuels and exempting appliances for use in SCAs by removing the requirement for twice-yearly SIs and giving the SoS powers to publish the lists administratively. This will result in reduced burdens for businesses and administrative savings for Defra. There is no anticipated impact on air quality or national emissions as the process for exemption remains fundamentally the same and the same standards are applied.