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WELSH STATUTORY INSTRUMENTS

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**2011 No. 2909 (W.313)**

**CLEAN AIR, WALES**

**The Smoke Control Areas (Authorised Fuels)  
(Wales) (Amendment) Regulations 2011**

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| <i>Made</i>  | - - - - | <i>2 December 2011</i>  |
| <i>Laid before the National<br/>Assembly for Wales</i> | - -     | <i>6 December 2011</i>  |
| <i>Coming into force</i>                               | - -     | <i>31 December 2011</i> |

The Welsh Ministers make the following regulations in exercise of the powers conferred upon the Secretary of State by sections 20(6) and 63(1) of the Clean Air Act 1993<sup>(1)</sup> and now vested in the Welsh Ministers<sup>(2)</sup> so far as exercisable in relation to Wales:

**Title, commencement and application**

1.—(1) The title of these Regulations is the Smoke Control Areas (Authorised Fuels) (Wales) (Amendment) Regulations 2011 and they come into force on 31 December 2011.

(2) These Regulations apply in relation to Wales.

**Amendments**

2. In the Schedule (Authorised Fuels) to the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2008<sup>(3)</sup>—

(a) after paragraph 4, insert—

“(4A) Big K Restaurant Grade Charcoal, manufactured by Big K Products UK Limited at Parque Industrial Alvear, 2126 Alvear, Provincia de Santa Fe, Argentina, which—

- (a) comprise pyrolised white quebracho wood;
- (b) were manufactured using a kiln pyrolysis process at approximately 450°C;
- (c) are unmarked charcoal pieces of between 30 millimetres to 150 millimetres; and
- (d) have a sulphur content not exceeding 2 per cent of the total weight.”

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(1) 1993 (c. 11).

(2) The relevant functions of the Secretary of State were, 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 (S.I. 1999/672). Those functions are 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 (c. 32).

(3) SI 2008/3100 (W.274), which has been amended by SI 2009/3225 (W.279).

- (b) after paragraph 8A, insert—
- “(8B) Briteheat Plus briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—
- (a) comprise anthracite duff (as to approximately 75 to 95 per cent of the total weight), petroleum coke (up to approximately 20 per cent of the total weight) and an organic binder (as to the remaining weight);
  - (b) were manufactured from those constituents by a process involving roll-pressing;
  - (c) are unmarked pillow shaped briquettes;
  - (d) have an average weight of 80 grams per briquette; and
  - (e) have a sulphur content not exceeding 2 per cent of the total weight.”.

(c) after paragraph 18, insert—

“(18A) EDF Fuel Briquettes, manufactured by TheGreenFactory at the Laboratoire de Chimie Agro-industrielle UMR 1010 INRA/INP-ENSIACET AGROMAT, Site de l'ENIT 47, Avenue D'Azereiz, -BP 1629 65016 Tarbes Cedex, France, which

    - (a) comprise approximately 100 grams of unprocessed Miscanthus (as to approximately 45 per cent of the total weight), approximately 95 grams of Copra ester (as to approximately 43 per cent of the total weight), and approximately 25 grams of a binder produced from Miscanthus (processed with calcium oxide as to approximately 0.5 per cent of the total weight) as to the remaining weight;
    - (b) are manufactured from those constituents by a process involving Miscanthus processing, mixing, hot pressing and soaking in an ester bath;
    - (c) are unmarked cylinder-shaped briquettes of 120 millimetres height and 60 millimetres diameter with a star-shaped hole running centrally through the longer length of the briquette;
    - (d) have an average weight of 220 grams per briquette; and
    - (e) have a sulphur content not exceeding 2 per cent of the total weight.”.

(d) after paragraph 21, insert—

“(21A) Homefire Fire Logs, manufactured by De Lange B.V., Rustenbugerweg 3, 1646 WJ Ursem, the Netherlands, which—

      - (a) comprise slackwax (as to approximately 50 per cent of the total weight) and sawdust (as to approximately 50 per cent of the total weight);
      - (b) were manufactured from those constituents by a process of heat treatment and extrusion;
      - (c) are firelogs approximately 280 millimetres in length and 75 millimetres × 75 millimetres with a single groove running along each of the four 280 millimetre length faces;
      - (d) have an average weight of 1.1 kilograms per firelog; and
      - (e) have a sulphur content not exceeding 0.2 per cent of the total weight.”.

(e) after paragraph 30, insert—

“(30A) Newflame Plus briquettes, manufactured by Maxibrite Limited, Mwyndy Industrial Estate, Llantrisant, Rhondda Cynon Taf, CF72 8PN, which—

        - (a) comprise 10 to 15 per cent bituminous coal, 10 to 15 per cent petroleum coke, 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 68 millimetres × 63 millimetres × 38 millimetres;
  - (d) have an average weight of 110 grams per briquette; and
  - (e) have a sulphur content not exceeding 1.9 per cent sulphur on a dry basis.”
- (f) for paragraph 36, substitute—
- “**36.** Stoveheat Premium briquettes, manufactured by Coal Products Limited at Immingham Briquetting Works, Immingham, North East Lincolnshire, which—
- (a) comprise anthracite duff (as to approximately 65 to 85 percent of the total weight), petroleum coke (as to approximately 20 per cent 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 cushion shaped briquettes with an indented line running around the briquette;
  - (d) have an average weight of 30 grams per briquette; and
  - (e) have a sulphur content not exceeding 2 per cent of the total weight.”

### **Saving**

**3.** Any fuel manufactured before the coming into force of these Regulations that was an authorised fuel when it was manufactured will continue to be an authorised fuel notwithstanding the substitution of paragraph 36 of the Schedule to the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2008.

2 December 2011

*John Griffiths*  
Minister for Environment and Sustainable  
Development, one of the Welsh Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2008 (S.I. 2008/3100 (W.274)) (“the 2008 Regulations”), which set out the fuels declared to be authorised fuels for the purposes of Part III (including section 20) of the Clean Air Act 1993 (“the 1993 Act”).

These Regulations amend the list of authorised fuels in the Schedule to the 2008 Regulations by—

- (a) adding five new fuels (Big K Restaurant Grade Charcoal, Briteheat Plus briquettes, EDF Fuel briquettes, Homefire Fire Logs and Newflame Plus briquettes); and
- (b) amending the specification of one other fuel (Stoveheat Premium briquettes),

Regulation 3 ensures that any fuel (namely Stoveheat Premium briquettes) that was manufactured before the coming into force of these Regulations, and which was an authorised fuel when it was manufactured, will continue to be an authorised fuel.

Section 20 of 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 industrial plant, if that chimney is within a smoke control area. However, it is a defence to prove that the alleged emission was caused solely by the use of an authorised fuel.

In Wales, an authorised fuel means a fuel declared to be an authorised fuel by regulations made by the Welsh Ministers.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.