

# Constitutional Affairs Committee Draft Report

CA(3)-02-11

## CA514: The Smoke Control Areas (Exempted Fireplaces) (Wales) Order 2011

### Procedure: Negative

This Order exempts specified fireplaces from the general prohibition on the emission of smoke in smoke control areas found in section 20 of the Clean Air Act 1993. The exempted fireplaces must burn fuel without producing any smoke or a substantial quantity of smoke.

This Order revokes and replaces with amendments the equivalent 2009 Order.

### Technical Scrutiny

The following point is identified for reporting under Standing Order 15.2 in respect of this instrument.

1. The Schedule to the English version requires that some exempted fireplaces are fitted with a mechanical stop “when sold into smoke control areas”.

The Schedule to the Welsh version requires that the same exempted fireplaces are fitted with a mechanical stop “when sold in smoke control areas” (“pan werthir hwy mewn ardaloedd rheoli mwg”).

The English and Welsh versions are therefore different and raise a reporting point on the grounds of:

Defective drafting, Standing Order 15.2(vi); and

Inconsistency between the English and Welsh texts, Standing Order 15.2(vii).

### Merits Scrutiny

No points are identified for reporting under Standing Order 15.3 in respect of this instrument at this stage.

### Legal Advisers

Constitutional Affairs Committee

January 2011

### The Government has responded as follows:

The Government accepts that there are inconsistencies between the English and the Welsh texts (Standing Order 15.2 (vii)) and as such raises a point of defective drafting under Standing Order 15.2 (vi).

The English text is correct and unambiguous but the Welsh text does not reflect the position in the English text. The Government considers it appropriate to rectify this by way of correction slip on publication of the Order.