

# ENVIRONMENT & INFRASTRUCTURE

## ENVIRONMENTAL PROTECTION

### CLEAN AIR ACT 1993, SECTION 18

#### NOTICE IN RESPECT OF WIRRAL BOROUGH COUNCIL THE WIRRAL BOROUGH COUNCIL SMOKE CONTROL ORDERS (REVOCAION) ORDER 2024 AND SMOKE CONTROL ORDER 2024

Notice is hereby given that Wirral Borough Council ("the Council") in exercise of its powers under section 18 of, and Part III of Schedule 5 to the Clean Air Act 1993, as amended ("the Act"),

(a) on 14th day of August 2024, made an Order entitled " WIRRAL BOROUGH COUNCIL SMOKE CONTROL ORDERS (REVOCAION) ORDER 2024" (the Revocation Order); and

(b) propose to make an order entitled "WIRRAL BOROUGH COUNCIL SMOKE CONTROL ORDER 2024" (the Proposed Order) declaring that the whole of the administrative area of the Council shall be a smoke control area for the purposes of the Act, subject to consideration by the Council of any objections, which are not withdrawn.

#### THE REVOCATION ORDER

The effect of the Revocation Order is to revoke existing smoke control orders put in place before November 1980, that are in operation in the administrative area of the Council set out in Schedule 1, subject to confirmation by the Secretary of State.

If confirmed, it will remove all smoke controls for those parts of the Council's administrative area previously declared smoke control areas as set out in Schedule 1. If the Revocation Order is confirmed, with or without modification, it will not come into operation any earlier than six months from the date of confirmation by the Secretary of State.

#### THE PROPOSED ORDER

The Proposed Order if made would declare the whole of the administrative area of the Council to be a smoke control area. It will also remove all smoke controls for those parts of the Council's administrative area previously declared smoke control areas after November 1980 as set out in Schedule 1. The effect of this would be that if, on any day after the Proposed Order comes into operation:-

1. The general effect of the Order is set out in paragraphs 1.1 to 1.4 below:

1.1. The coming into operation of this Order will revoke all earlier Smoke Control Orders listed in Schedule 1 to this Notice, and any others referring to areas within the administrative area of the Council, insofar as they currently apply to Wirral Borough Council and subject to confirmation by the Secretary of State.

1.2. The Order will cover the whole of the area within the boundary of Wirral Borough Council. The Order consolidates all earlier orders into a single Order and takes into account borough boundary changes and redevelopments of local areas that have occurred in the time since the earlier Orders commenced.

1.3. If on any day after the Order comes into operation smoke is emitted from a chimney of any building within the area covered by the Order, or from a chimney not fixed to a building but serving a fixed boiler furnace or industrial plant, the occupier of that building or the person having possession of the boiler or plant will be guilty of an offence and liable to a financial penalty of up to £300.00, unless they prove that the emission of smoke was caused by the use of an authorised fuel or by the use of an exempted fireplace used in accordance with the associated exemption conditions.

1.4. If on any day after the Order comes into operation, and within the Council's area, a person who:

- (i) acquires any controlled solid fuel for use in
  - a. a building to which the smoke control order applies;
  - b. a fireplace, other than an approved fireplace, to which the smoke control order applies; or
  - c. a fixed boiler or industrial plant, not being a boiler or plant so exempted.

(ii) offers controlled solid fuel for sale by retail in England where the fuel is to be taken away by a purchaser, and fails to take reasonable steps to notify potential purchasers that it is an offence to acquire that fuel for any of the uses mentioned in 1.4(i) above,

(iii) sells any controlled solid fuel by retail for delivery by that person, or on that person's behalf, to:

- a. a building to which a smoke control order in England applies, or
- b. premises in which there is any fixed boiler or industrial plant to which such an order applies,

will be guilty of an offence and liable upon conviction, in the case of 1.4(i) a fine up to Level 3 on the standard scale (currently up to £1,000), and in the case of 1.4(ii) and (iii) above to an unlimited fine, unless there is a defence applicable under the Clean Air Act 1993.

2. A "fireplace" includes any furnace, grate or stove, whether open or closed. An 'approved fireplace' means a fireplace of a type specified in a list published by the Secretary of State; 'controlled solid fuel' means any solid fuel other than an approved fuel and 'approved fuel' means a solid fuel specified in a list published by the Secretary of State).

Details of all currently exempted fireplaces are available at: <http://smokecontrol.defra.gov.uk/appliances.php?country=e>

Details of all approved fuels are available at: <http://smokecontrol.defra.gov.uk/fuels.php?country=england>

3. For six weeks from 02/10/2024 to 12/11/2024 a copy of the Orders may be freely viewed from Monday to Friday - 09:00 to 17:00 at the Council offices at:

Birkenhead Town Hall, Mortimer Street, Birkenhead, CH41 5EU and  
A copy will also be available to view on the Council's website: <https://www.wirral.gov.uk/environmental-problems/pollution-control/smoke-control-areas>

4. Any person who may be affected by the Proposed Order may object to its confirmation by giving notice in writing on or before 12/11/2024 to:

Email: [environmentalhealth@wirral.gov.uk](mailto:environmentalhealth@wirral.gov.uk) or  
Environmental Health, Wirral Council, PO BOX 290, Wallasey, CH27 9FQ

5. Objections to the confirmation of the Revocation Order must be sent to the Secretary of State on or before 12/11/2024 at:

Email: [Air.Quality@defra.gov.uk](mailto:Air.Quality@defra.gov.uk) or  
Air Quality and Industrial Emissions, DEFRA, Seacole Building, 2 Marsham Street, London, SW1P 4DF

All objections should be clearly headed 'Objection to revision to Smoke Control Orders'.

#### SCHEDULE 1

##### SMOKE CONTROL ORDERS TO BE REVOKED

1. The Wallasey (Church Street) Smoke Control Order No. 1, 1958
2. Wallasey (Moreton) Smoke Control Order No. 2, 1959
3. The Wallasey (Upton Road) Smoke Control Order No. 3, 1959
4. Wallasey (Fender Lane) Smoke Control Order No. 4, 1960
5. Wallasey (Brighton Street) Smoke Control Order No. 5, 1960
6. Wallasey (Leasowe) Smoke Control Order No. 6
7. The Wallasey (Seacombe/Poulton) Smoke Control Order No. 7, 1961
8. Wallasey (Lingham) Smoke Control Order No. 8, 1962
9. Wallasey (Upton Park) Smoke Control Order No. 9, 1962
10. The Wallasey (New Brighton) Smoke Control Order No. 10, 1963
11. The Wallasey (Breck Road) Smoke Control Order No. 11, 1965
12. The Wallasey (Warren) Smoke Control Order No. 12, 1966
13. The Wallasey (Saughall) Smoke Control Order No. 13
14. Wallasey (Egremont) Smoke Control Order No. 16, 1971
15. Wallasey (Seabank) Smoke Control Order No. 17
16. The Metropolitan Borough of Wirral (Birkenhead Area No.20 Woodside) Smoke Control Order 1974
17. The Metropolitan Borough of Wirral (Birkenhead Area No.21 Mersey) Smoke Control Order 1975
18. The Metropolitan Borough of Wirral (Area No.1 Mersey) Smoke Control Order 1979
19. The Metropolitan Borough of Wirral (Area No.2 Tranmere) Smoke Control Order 1979
20. The Wirral (No.3 Central) Smoke Control Order 1980
21. The Metropolitan Borough of Wirral Smoke Control Area No. 4 (Egerton) 1981
22. The Metropolitan Borough of Wirral No. 5 (Port Sunlight) Smoke Control Order 1982
23. The Metropolitan Borough of Wirral No. 6 (Eastham) Smoke Control Order 1982
24. The Metropolitan Borough of Wirral No. 7 (Greasby) Smoke Control Order 1982
25. The Metropolitan Borough of Wirral No. 8 (Pensby) Smoke Control Order 1991