

FIRE (SCOTLAND) ACT 2005

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 2 – Fire and Rescue Services

Chapter 5 – Powers of employees and constables

Section 25 – Powers of authorised employees in relation to emergencies

44. This section provides an employee of a relevant authority who has written authorisation from that authority with powers to do what he reasonably thinks necessary to deal with fires, road traffic accidents and other emergencies. It replaces section 30(1) of the 1947 Act which was limited to dealing with extinguishing or preventing the spread of fires and recognises the wider range of duties of fire fighters, including the work which fire authorities do in responding to road traffic accidents.

Section 26 – Powers of constables in relation to fires

45. This section sets out the powers of constables to do whatever he or she reasonably thinks necessary in the event that the constable reasonably believes a fire has broken out. It replicates powers under the 1947 Act.

Section 27 – Powers of authorised employees in relation to obtaining information.

46. This section allows an authorised employee of a relevant authority to enter premises to obtain information that is needed for the discharge of the core functions of fire fighting (section 9), dealing with road traffic accidents (section 10) and specified emergencies (section 11). Such entry must be at a reasonable time, cannot be forcible and 24 hours notice must be given to the occupier of a private dwelling, but these safeguards may be overridden if a warrant is obtained from a sheriff or justice of the peace.

Section 28 – Giving of notices required by section 27

47. Section 28 provides for the means by which a notice under section 27 may be served.

Section 29 – Powers of authorised employees in relation to investigating fires

48. This section allows an authorised employee of a relevant authority to enter premises where a fire has occurred (including land and premises on which there is a vehicle in which there has been a fire (such as a garage)) in order to investigate the cause and progression of the fire that has occurred there, and grants that officer powers, including the power to take samples.

Section 30 – Exercise of powers under sections 27 and 29: securing of premises

49. Section 30 obliges an authorised employee of a relevant authority who has entered a place under section 27 or 29 to leave the premises as secure against unauthorised entry as they were when found.

Section 31 – Sections 27 and 29: offences

50. **Section 31** makes failure (without reasonable excuse) to comply with any requirement under sections 27(4)(b) and 29(2)(g) an offence and a person may be liable on summary conviction to a maximum of a level 4 fine (currently £2500).

Section 32 – Use of commercially sensitive information

51. **Section 32** replicates the provisions of the 1947 Act which made it an offence for any person to make use of or disclose any commercially sensitive information which they obtain in the course of exercising their powers under sections 25, 26, 27 or 29. A person is liable on summary conviction to a fine not exceeding level 4 or to 3 months' imprisonment.