



# Fire (Scotland) Act 2005

## 2005 asp 5

### PART 2 **S**

#### FIRE AND RESCUE SERVICES

### CHAPTER 1 **S**

#### APPOINTMENT OF CHIEF OFFICER

#### <sup>F17</sup> Appointment of Chief Officer **S**

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#### Textual Amendments

- F1** Ss. 2-7 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 2](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#))

### CHAPTER 2 **S**

#### PRINCIPAL FIRE AND RESCUE FUNCTIONS

#### **8** Fire safety **S**

- (1) [<sup>F2</sup>SFRS must] make provision for the purpose of promoting fire safety in its area.
- (2) In making provision under subsection (1) [<sup>F3</sup>SFRS must] in particular, to the extent that [<sup>F4</sup>it] considers it reasonable to do so, make arrangements for—
  - (a) the provision of information, publicity and encouragement in respect of the steps to be taken to prevent—
    - (i) fires; and
    - (ii) death or injury by fire;
  - (b) the giving of advice, on request, about—

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- (i) how to prevent fires and restrict their spread in buildings and other property; and
- (ii) the means of escape from buildings and other property in the event of fire.

#### Textual Amendments

- F2** Words in s. 8(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 102\(a\), 129\(2\)](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F3** Words in s. 8(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 102\(b\)\(i\), 129\(2\)](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F4** Word in s. 8(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 102\(b\)\(ii\), 129\(2\)](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

## 9 Fire-fighting **S**

- (1) [<sup>F5</sup>SFRS must] make provision for the purpose of—
  - (a) extinguishing fires in its area; and
  - (b) protecting life and property in the event of fires in its area.
- (2) In making provision under subsection (1) [<sup>F6</sup>SFRS must] in particular—
  - (a) secure the provision of the personnel, services and equipment necessary to meet efficiently all normal requirements;
  - (b) secure the provision of training for personnel;
  - (c) make arrangements for—
    - (i) dealing with calls for help; and
    - (ii) summoning personnel,
 in the event of fire;
  - (d) make arrangements for obtaining information required or likely to be required for the purpose mentioned in that subsection;
  - (e) make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from action taken for the purpose mentioned in that subsection.

#### Textual Amendments

- F5** Words in s. 9(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 104\(a\), 129\(2\)](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F6** Words in s. 9(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 104\(b\), 129\(2\)](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

## 10 Road traffic accidents **S**

- (1) [<sup>F7</sup>SFRS must] make provision for the purpose of—
  - (a) rescuing persons in the event of road traffic accidents in its area; and
  - (b) to the extent that it considers it reasonable to do so, protecting persons from serious harm in the event of road traffic accidents in its area.
- (2) In making provision under subsection (1) [<sup>F8</sup>SFRS must] in particular—

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- (a) secure the provision of the personnel, services and equipment necessary to meet efficiently all normal requirements;
- (b) secure the provision of training for personnel;
- (c) make arrangements for—
  - (i) dealing with calls for help; and
  - (ii) summoning personnel,in the event of road traffic accidents;
- (d) make arrangements for obtaining information required or likely to be required for the purpose mentioned in that subsection;
- (e) make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from action taken for the purpose mentioned in that subsection.

#### Textual Amendments

- F7** Words in s. 10(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), ss. [105\(a\)](#), [129\(2\)](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F8** Words in s. 10(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), ss. [105\(b\)](#), [129\(2\)](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#))

## 11 Conferral of functions in relation to other emergencies **S**

- (1) The Scottish Ministers may by order (an “additional function order”) confer on [F<sup>9</sup>SFRS] a function relating to an emergency of a kind specified in the order (the “additional function”).
- (2) An additional function order may not specify as a kind of emergency—
  - (a) a fire; or
  - (b) a road traffic accident,in the area of [F<sup>10</sup>SFRS].
- (3) An additional function order may make provision for or in connection with—
  - (a) requiring the additional function to be carried out by [F<sup>11</sup>SFRS] outwith its area;
  - (b) specifying what [F<sup>11</sup>SFRS] shall or may do for the purpose of the additional function;
  - (c) requiring or authorising [F<sup>11</sup>SFRS]—
    - (i) to secure the provision of personnel, services and equipment;
    - (ii) to secure the provision of training for personnel;
    - (iii) to make arrangements for dealing with calls for help and summoning personnel;
    - (iv) to make arrangements for obtaining information required or likely to be required for the purpose of carrying out the function;
    - (v) to make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from carrying out the function.

*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

#### Textual Amendments

- F9** Words in s. 11(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 106\(a\)](#), 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F10** Word in s. 11(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 106\(b\)](#), 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F11** Words in s. 11(3) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 106\(b\)](#), 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

#### Commencement Information

- I1** S. 11 wholly in force at 2.8.2005; s. 11 not in force at Royal Assent see s. 90; s. 11 in force for certain purposes at 6.4.2005 by [S.S.I. 2005/207](#), [art. 3](#); s. 11 in force at 2.8.2005 in so far as not already in force by [S.S.I. 2005/392](#), [art. 2\(b\)](#)

## CHAPTER 3 S

### ANCILLARY FUNCTIONS

#### <sup>F12</sup>12 **Emergency directions** S

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#### Textual Amendments

- F12** S. 12 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 2](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

#### 13 **Power to respond to other eventualities** S

- (1) [<sup>F13</sup>SFRS] may take any action it considers appropriate—
- (a) in response to an event or situation that causes or is likely to cause—
    - (i) a person to die, be injured or become ill; or
    - (ii) harm to the environment (including the life and health of plants and animals and the fabric of buildings); or
  - (b) for the purpose of enabling it to take action in response to such an event or situation.
- (2) The power conferred by subsection (1)—
- (a) includes power to secure the provision of equipment; and
  - (b) may be exercised by [<sup>F14</sup>SFRS] within or outwith its area.

#### Textual Amendments

- F13** Word in s. 13(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 107\(a\)](#), 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F14** Word in s. 13(2)(b) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 107\(b\)](#), 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

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## 14 Provision of other services **S**

- (1) [<sup>F15</sup>SFRS] may provide—
  - (a) the services of any persons employed by it; or
  - (b) any equipment maintained by it,to any person for any purpose that appears to [<sup>F16</sup>SFRS] to be appropriate.
- (2) [<sup>F17</sup>SFRS] may provide services or equipment under this section within or outwith its area.

### Textual Amendments

- F15** Word in s. 14(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 108(a)(i)**, 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F16** Word in s. 14(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 108(a)(ii)**, 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F17** Word in s. 14(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 108(b)**, 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

## 15 Provision of centres for education and training **S**

[<sup>F18</sup>SFRS] may establish and maintain one or more centres for providing education and training in matters in relation to which [<sup>F19</sup>it has] functions.

### Textual Amendments

- F18** Word in s. 15 substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 109(a)**, 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F19** Words in s. 15 substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 109(b)**, 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

## 16 Charging **S**

- (1) The Scottish Ministers may by order (a “charging order”) authorise [<sup>F20</sup>SFRS] to charge a person of a description specified in the order for any action so specified taken by [<sup>F21</sup>SFRS].
- (2) A charging order may authorise a charge to be imposed on, or recovered from, a person other than the person in respect of whom action is taken by [<sup>F22</sup>SFRS].
- (3) A charging order may authorise charging for—
  - (a) extinguishing fires;
  - (b) protecting life; or
  - (c) protecting property in the event of fires,only in respect of action taken by [<sup>F23</sup>SFRS at sea beyond the low water mark].
- (4) Where [<sup>F24</sup>SFRS is] authorised by a charging order to charge for taking action of a particular description [<sup>F25</sup>and it] decides to do so—
  - (a) the amount of the charge shall be set by [<sup>F26</sup>SFRS];
  - (b) different amounts may be charged in different circumstances (and [<sup>F26</sup>SFRS] may charge nothing).

*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

<sup>F27</sup>(5) .....

<sup>F27</sup>(6) .....

[<sup>F28</sup>(7) The references in subsection (3) to “sea” include–

- (a) that part of the territorial sea of the United Kingdom which is not adjacent to Scotland; and
- (b) sea beyond the territorial sea of the United Kingdom.]

#### Textual Amendments

- F20** Word in s. 16(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 110(a)(i)**, 129(2); [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F21** Word in s. 16(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 110(a)(ii)**, 129(2); [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F22** Word in s. 16(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 110(b)**, 129(2); [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F23** Words in s. 16(3) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 110(c)**, 129(2); [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F24** Words in s. 16(4) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 110(d)(i)**, 129(2); [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F25** Words in s. 16(4) inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 110(d)(ii)**, 129(2); [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F26** Word in s. 16(4) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 110(d)(iii)**, 129(2); [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F27** S. 16(5)(6) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 2**; [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F28** S. 16(7) inserted (2.8.2005) by [The Fire \(Scotland\) Act 2005 \(Consequential Provisions and Modifications\) Order 2005 \(S.I. 2005/2060\)](#), arts. 1(2)(b), **2(2)**; [S.S.I. 2005/392](#), **art. 2(c)(d)**

#### Commencement Information

- I2** S. 16 wholly in force at 2.8.2005; s. 16 not in force at Royal Assent see s. 90; s. 16 in force for certain purposes at 6.4.2005 by [S.S.I. 2005/207](#), **art. 3**; s. 16 in force at 2.8.2005 in so far as not already in force by [S.S.I. 2005/392](#), **art. 2(b)**

#### [<sup>F29</sup>16A Exercise of powers at sea: further provision **S**

- (1) Subsection (2) applies where [<sup>F30</sup>SFRS] has power to act, or is required to act, at sea.
- (2) The power may be exercised or the duty carried out–
  - (a) at sea in that part of the territorial sea of the United Kingdom which is not adjacent to Scotland; and
  - (b) at sea beyond the territorial sea of the United Kingdom.]

#### Textual Amendments

- F29** S. 16A inserted (2.8.2005 in accordance with art. 1(2)(b) of the amending S.I.) by [The Fire \(Scotland\) Act 2005 \(Consequential Provisions and Modifications\) Order 2005 \(S.I. 2005/2060\)](#), **art. 2(3)**; [S.S.I. 2005/392](#), **art. 2(c)(d)** and said inserted provision expressed to be commenced on 1.10.2006 by [S.S.I. 2006/458](#), **art. 2(a)** (subject to art. 3)

*Changes to legislation:* There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)

**F30** Word in s. 16A(1) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 47**

## CHAPTER 4 **S**

### WATER SUPPLY

#### *Supply and use of water*

## 17 **Duty to secure water supply** **S**

- (1) [<sup>F31</sup>SFRS] shall take all reasonable measures for securing that an adequate supply of water will be available for [<sup>F32</sup>its] use for the purposes mentioned in subsection (2).
- (2) Those purposes are—
  - (a) extinguishing fires in the area of [<sup>F33</sup>SFRS];
  - (b) protecting life and property in the event of fires in its area;
  - (c) rescuing people in the event of road traffic accidents in its area;
  - (d) protecting people from serious harm in the event of road traffic accidents in its area;
  - (e) carrying out any function conferred on [<sup>F34</sup>SFRS] by an order under section 11; and
  - (f) fulfilling any requirement made of [<sup>F35</sup>SFRS] by a direction given to it under section 12.

### Textual Amendments

- F31** Word in s. 17(1) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(3)(a)(i)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F32** Word in s. 17(1) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(3)(a)(ii)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F33** Word in s. 17(2)(a) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(3)(b)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F34** Word in s. 17(2)(e) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(3)(b)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F35** Word in s. 17(2)(f) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(3)(b)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

## 18 **Use of water** **S**

- (1) Subject to—
  - (a) an agreement under section 19(1); and
  - (b) section 9A of the Water (Scotland) Act 1980 (c. 45) (charging for emergency use of water),



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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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[<sup>F36</sup>SFRS] may use any suitable supply of water for the purposes mentioned in section 17(2).

- (2) [<sup>F37</sup>SFRS] shall pay reasonable compensation for water used by virtue of subsection (1).

#### Textual Amendments

- F36** Word in s. 18(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(4\)\(a\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F37** Word in s. 18(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(4\)\(b\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

## 19 Agreements in relation to water supply **S**

- (1) For the purposes of section 17, [<sup>F38</sup>SFRS] may—
- (a) enter into an agreement with Scottish Water; or
  - (b) enter into an agreement to—
    - (i) secure the use of water under the control of a person other than Scottish Water;
    - (ii) improve access to any such water;
    - (iii) lay and maintain pipes and carry out other works in connection with the use of such water.
- (2) Subject to section 9A of the Water (Scotland) Act 1980 (c. 45) (charging for emergency use of water), an agreement mentioned in subsection (1)(a) may include terms as to payment to be made to Scottish Water.
- (3) Scottish Water shall not unreasonably refuse to enter into an agreement mentioned in subsection (1)(a) which is proposed by [<sup>F39</sup>SFRS].
- (4) Any question whether Scottish Water has unreasonably refused to enter into an agreement mentioned in subsection (1)(a) shall be determined by the Scottish Ministers.

#### Textual Amendments

- F38** Word in s. 19(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(5\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F39** Word in s. 19(3) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(5\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

## 20 Emergency supply by Scottish Water **S**

- (1) If [<sup>F40</sup>SFRS] requests Scottish Water to provide a supply or pressure of water for a purpose mentioned in section 17(2) that is greater than it would otherwise provide, it shall take all necessary steps in order to do so.



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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- (2) For the purposes of complying with its obligation under subsection (1) Scottish Water may shut off the water from the mains and pipes in any area.
- (3) Scottish Water (and any other person) shall not be liable to any penalty or claim arising because of anything done by Scottish Water in complying with its obligation under subsection (1).
- (4) If, without reasonable excuse, Scottish Water fails to take any step which it is obliged to take under subsection (1), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

**F40** Word in s. 20(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(6\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

### *Fire hydrants*

## 21 Fire hydrants: provision etc. **S**

- (1) Sections 19 to 22 of Schedule 4 to the Water (Scotland) Act 1980 (c. 45) (requirement to provide fire hydrants etc.) shall apply to Scottish Water.
- (2) Scottish Water shall cause the location of every fire hydrant provided by it to be clearly indicated by—
  - (a) a notice; or
  - (b) a distinguishing mark.
- (3) Scottish Water may place such a notice or mark on a wall or fence adjoining a road or public place.
- (4) The expenses incurred by Scottish Water under subsection (2) in relation to a hydrant shall be borne by [<sup>F41</sup>SFRS].
- (5) The Scottish Ministers may make regulations providing for uniformity in—
  - (a) fire hydrants provided by Scottish Water; and
  - (b) notices or marks indicating locations of such hydrants.
- (6) Where a fire hydrant provided by Scottish Water is damaged as the result of any use made of it with the authority of Scottish Water (other than use for the purposes of fire-fighting or any other purposes of [<sup>F42</sup>SFRS) SFRS] shall not be liable for the cost of repairing or replacing it.

#### Textual Amendments

**F41** Word in s. 21(4) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(7\)\(a\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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**F42** Words in s. 21(6) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(7\)\(b\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

## 22 Fire hydrants: recovery of costs **S**

- (1) Schedule 4 to the Water (Scotland) Act 1980 (c. 45) (provisions incorporated in orders relating to water undertakings) shall be amended as follows.
- (2) After section 21 insert—

The Scottish Ministers may by regulations make provision as to—

- (a) the persons (other than Scottish Water) from whom; or
- (b) the circumstances in which,

fire authorities may recover costs defrayed under section 21 of this Schedule.”.

- (3) In section 22, for the words “the last but one foregoing section” substitute “ section 20 of this Schedule ”.

## 23 Fire hydrants: offences **S**

- (1) A person who—
  - (a) uses a fire hydrant provided by Scottish Water otherwise than for a purpose mentioned in subsection (2); or
  - (b) damages or obstructs such a fire hydrant otherwise than in consequence of use for such a purpose,
 shall be guilty of an offence.
- (2) Those purposes are—
  - (a) fire-fighting;
  - (b) any other purpose of <sup>F43</sup>SFRS];
  - (c) any purpose authorised by Scottish Water.
- (3) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### Textual Amendments

**F43** Word in s. 23(2)(b) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(8\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

### *Works affecting supply and hydrants*

## 24 Notice of works affecting water supply and fire hydrants **S**

- (1) A person who proposes to carry out works for the purpose of supplying water to any part of the area of <sup>F44</sup>SFRS] shall give the relevant period's notice in writing to <sup>F45</sup>SFRS].

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- (2) In subsection (1) the “relevant period” is—
- (a) in the case where the works are proposed to be carried out to comply with a requirement imposed under any enactment other than the Water (Scotland) Act 1980 (c. 45), 14 days;
  - (b) in any other case, 6 weeks.
- (3) A person who proposes to carry out works affecting a fire hydrant shall give at least 7 days' notice in writing to [<sup>F46</sup>SFRS].
- (4) If it is not practicable for a person to give notice as required by subsection (1) or (3), the person shall be regarded as having given such notice if it is given as soon as practicable.
- (5) A person who, without reasonable excuse, fails to give notice as required by subsection (1) or (3) shall be guilty of an offence.
- (6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

- F44** Word in s. 24(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(9\)\(a\)\(i\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F45** Word in s. 24(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(9\)\(a\)\(ii\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F46** Word in s. 24(3) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(9\)\(b\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

#### [<sup>F47</sup>24A Use of electronic communication **S**

- (1) In section 24(1) and (3), the reference to the giving of notice in writing shall include the giving of notice by means of a document, the text of which—
- (a) is received in legible form;
  - (b) is capable of being used for subsequent reference; and
  - (c) is sent by an electronic communication within the meaning of section 15(1) of the Electronic Communications Act 2000 (c. 7).]

#### Textual Amendments

- F47** S. 24A inserted (23.6.2006) by [The Electronic Communications \(Scotland\) Order 2006 \(S.S.I. 2006/367\)](#), [arts. 1\(1\)](#) {8}

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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## CHAPTER 5 S

### POWERS OF EMPLOYEES AND CONSTABLES

#### *Powers in emergencies*

#### 25 Powers of authorised employees in relation to emergencies S

- (1) An employee of [<sup>F48</sup>SFRS] who is authorised in writing by [<sup>F49</sup>SFRS] for the purposes of this section (an “authorised employee”) and on duty may—
- (a) if the employee reasonably believes that a fire has broken out, do anything the employee reasonably believes to be necessary for the purpose of—
    - (i) extinguishing the fire; or
    - (ii) protecting life or property;
  - (b) if the employee reasonably believes that a road traffic accident has occurred, do anything the employee reasonably believes to be necessary for the purpose of—
    - (i) rescuing people; or
    - (ii) protecting them from serious harm;
  - (c) if the employee reasonably believes that an emergency other than a fire or road traffic accident has occurred, do anything the employee reasonably believes to be necessary for the purpose of carrying out any function conferred on [<sup>F49</sup>SFRS] in relation to the emergency; and
  - (d) do anything the employee reasonably believes to be necessary for the purpose of preventing or limiting damage to property resulting from action taken as mentioned in paragraph (a), (b) or (c).
- (2) An authorised employee may in particular under subsection (1)—
- (a) enter premises or a place (by force if necessary);
  - (b) move a vehicle without the consent of its owner;
  - (c) force open and enter a lockfast vehicle;
  - (d) close a road;
  - (e) stop and regulate traffic;
  - (f) restrict the access of persons to premises or a place.

#### Textual Amendments

- F48** Word in s. 25(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(10\)\(a\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F49** Word in s. 25(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(10\)\(b\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

#### Modifications etc. (not altering text)

- C1** S. 25 applied (with modifications) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), arts. 1(2), [21\(2\)](#)
- C2** S. 25 applied (with modifications) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), arts. 1(2), [22\(2\)](#)

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*Changes to legislation:* There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)

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## 26 Powers of constables in relation to fires **S**

- (1) A constable may—
- (a) if the constable reasonably believes that a fire has broken out, do anything the constable reasonably believes to be necessary for the purpose of—
    - (i) extinguishing the fire; or
    - (ii) protecting life or property; and
  - (b) do anything the constable reasonably believes to be necessary for the purpose of preventing or limiting damage to property resulting from anything done as mentioned in paragraph (a).
- (2) A constable may in particular under subsection (1)—
- (a) enter (by force if necessary) premises or a place;
  - (b) move a vehicle without the consent of its owner;
  - (c) force open and enter a lockfast vehicle;
  - (d) restrict the access of persons to premises or a place.

### *Obtaining information*

## 27 Powers of authorised employees in relation to obtaining information **S**

- (1) Subject to subsection (2) an employee of [<sup>F50</sup>SFRS] who is authorised in writing by [<sup>F51</sup>SFRS] for the purposes of this section (an “authorised employee”) may at any reasonable time enter premises for the purpose of obtaining information needed for the carrying out of [<sup>F52</sup>SFRS's] functions under section 9, 10 or 11.
- (2) An authorised employee may not under subsection (1)—
- (a) enter premises by force; or
  - (b) demand admission to premises occupied as a private dwelling unless 24 hours' notice in writing has first been given to the occupier of the dwelling.
- (3) If, on the application of an authorised employee, a sheriff or justice of the peace is satisfied—
- (a) that—
    - (i) it is necessary for the employee to enter premises for the purposes of subsection (1); and
    - (ii) the employee is unable to do so, or is likely to be unable to do so, otherwise than by force,the sheriff or justice may issue a warrant authorising the employee to enter the premises by force at any reasonable time; or
  - (b) that it is necessary for the employee to enter premises for the purposes of subsection (1) without giving notice as required by subsection (2)(b), the sheriff or justice may issue a warrant authorising the employee to enter the premises at any time (by force if necessary).
- (4) If an authorised employee exercises a power of entry by virtue of this section, the employee may—
- (a) take onto the premises—
    - (i) such other persons; and
    - (ii) such equipment,

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- as the employee considers necessary; and
- (b) require any person present on the premises to provide the employee with any—
- (i) facilities, information, documents or records; or
- (ii) other assistance,
- that the employee may reasonably request.
- (5) An authorised employee exercising a power of entry by virtue of this section shall, if so required, produce the items mentioned in subsection (6)—
- (a) before entering the premises; or
- (b) at any time before leaving the premises.
- (6) Those items are—
- (a) evidence of the employee's authorisation for the purpose of this section; and
- (b) any warrant under subsection (3)(a) or (b).

#### **Textual Amendments**

- F50** Word in s. 27(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(11\)\(a\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F51** Word in s. 27(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(11\)\(b\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F52** Word in s. 27(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(11\)\(c\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

#### **Modifications etc. (not altering text)**

- C3** S. 27 applied (with modifications) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), arts. 1(2), [22\(3\)](#)
- C4** S. 27 applied (with modifications) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), arts. 1(2), [21\(3\)](#)

## **28 Giving of notices required by section 27 S**

- (1) The notice required by section 27(2)(b) may be given—
- (a) by delivering it to the occupier of the dwelling;
- (b) by leaving it for that person at the dwelling; or
- (c) by sending it by post to that person at the dwelling.
- (2) If the name or address of the person to whom notice under section 27(2)(b) is required to be given cannot be ascertained after reasonable inquiry, the notice may be given—
- (a) by leaving it in the hands of a person who is, or appears to be, resident in the dwelling; or
- (b) by leaving it fixed to a conspicuous part of the dwelling.

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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## 29 Powers of authorised employees in relation to investigating fires **S**

- (1) An employee of [<sup>F53</sup>SFRS] who is authorised in writing by [<sup>F54</sup>SFRS] for the purposes of this section (an “authorised employee”) may, at any reasonable time (by force if necessary), enter premises in which there has been a fire for the purpose of investigating—
  - (a) what caused the fire; or
  - (b) why it progressed as it did.
- (2) If an authorised employee exercises the power mentioned in subsection (1) the employee may—
  - (a) take onto the premises—
    - (i) such other persons; and
    - (ii) such equipment,as the employee considers necessary;
  - (b) inspect and copy any documents or records on the premises or remove them from the premises;
  - (c) carry out any inspections, measurements and tests in relation to—
    - (i) the premises; or
    - (ii) an article or substance found on the premises,that the employee considers necessary;
  - (d) take samples of an article or substance found on the premises (but not so as to destroy it or damage it unless it is necessary to do so for the purpose of the investigation);
  - (e) dismantle an article found on the premises (but not so as to destroy it or damage it unless it is necessary to do so for the purpose of the investigation);
  - (f) take possession of an article or substance found on the premises and retain it for as long as is necessary for the purpose of—
    - (i) examining it and doing anything the employee has power to do under paragraph (c) or (e);
    - (ii) ensuring that it is not tampered with before the employee's examination of it is completed; or
    - (iii) ensuring that it is available for use as evidence in proceedings for an offence relevant to the investigation;
  - (g) require a person present on the premises to provide the employee with any—
    - (i) facilities, information, documents or records; or
    - (ii) other assistance,that the employee may reasonably request.
- (3) An authorised employee exercising the power mentioned in subsection (1) shall, if so required, produce evidence of the employee's authorisation for the purpose of this section—
  - (a) before entering the premises; or
  - (b) at any time before leaving the premises.
- (4) If an authorised employee exercises the power in subsection (2)(d) the employee shall—
  - (a) leave a notice at the premises with a responsible person (or, if that is impracticable, fixed in a prominent position) giving particulars of the article or substance and stating that the employee has taken a sample of it; and



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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- (b) if it is practicable to do so, give such a person at the premises a portion of the sample marked in a manner sufficient to identify it.
- (5) If an authorised employee exercises the power in subsection (2)(f) the employee shall leave a notice at the premises (either with a responsible person or if that is impracticable fixed in a prominent position) giving particulars of the article or substance and stating that the employee has taken possession of it.
- (6) This section shall apply in relation to vehicles as it applies in relation to premises; but subject to the following modifications—
- (a) the power conferred by subsection (1) includes power to enter premises in which a vehicle in which there has been a fire is being kept;
  - (b) the power conferred by paragraph (a) of subsection (2) includes power to take persons and equipment to the place where a vehicle is; and
  - (c) references to premises in subsections (2)(g) and (3) to (5) include references to premises in which vehicles are kept.
- (7) In this section “premises” includes land.

#### Textual Amendments

- F53** Word in s. 29(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(12\)\(a\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F54** Word in s. 29(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(12\)\(b\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

#### Modifications etc. (not altering text)

- C5** S. 29 applied (with modifications) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), arts. 1(2), [21\(4\)](#)
- C6** S. 29 applied (with modifications) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), arts. 1(2), [22\(4\)](#)

### 30 Exercise of powers under sections 27 and 29: securing of premises S

An employee of [<sup>F55</sup>SFRS] who, by virtue of section 27 or 29, enters premises—

- (a) which are unoccupied; or
- (b) from which the occupier is temporarily absent,

and who is authorised to do so by virtue of those sections shall on departure leave the premises as effectively secured against unauthorised entry as the employee found them.

#### Textual Amendments

- F55** Word in s. 30 substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(13\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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**31 Sections 27 and 29: offences** **S**

- (1) If, without reasonable excuse, a person fails to comply with any requirement under section 27(4)(b) or 29(2)(g), the person shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

*Use of information*

**32 Use of commercially sensitive information** **S**

- (1) If, without reasonable excuse, a person—
  - (a) makes use of, or
  - (b) discloses,any commercially sensitive information obtained by the person while on premises entered in exercise of a power conferred by virtue of section 25, 26, 27 or 29, the person shall be guilty of an offence.
- (2) In subsection (1) “commercially sensitive information” means information with regard to any—
  - (a) manufacturing process; or
  - (b) trade secret.
- (3) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 3 months.

**CHAPTER 6** **S**

MUTUAL ASSISTANCE ETC.

*Assistance in discharge of functions*

<sup>F56</sup>**33 Reinforcement schemes** **S**

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**Textual Amendments**

**F56** S. 33 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 2](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

<sup>F57</sup>**34 Directions about reinforcement schemes** **S**

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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#### Textual Amendments

**F57** S. 34 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 2**; [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

### 35 [<sup>F58</sup> Assistance] S

<sup>F59</sup>(1) SFRS may enter into arrangements with a person for securing the provision by that person of assistance for SFRS in the carrying out by SFRS of a relevant function.

(2) A person may provide assistance under arrangements made under subsection (1) only if the Chief Officer is satisfied that the person has sufficient knowledge, skills and experience to enable the person to provide assistance for SFRS in the carrying out by SFRS of the relevant function.]

(3) Arrangements under this section may include provision as to the terms (including terms as to payment) on which assistance is to be provided.

<sup>F60</sup>(4) In this section, “relevant function” means a function conferred by or under any of sections 8 to 11, 13 and 61.]

#### Textual Amendments

**F58** S. 35 heading substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 111**, 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

**F59** S. 35(1)(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 111(a)**, 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

**F60** S. 35(4) added (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 111(b)**, 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

### *Performance of functions by others*

### 36 Arrangements for carrying out of functions by others S

<sup>F61</sup>(1) SFRS may enter into arrangements with a person for the carrying out by that person of a relevant function.

(2) A person may carry out a relevant function under arrangements made under subsection (1) only if the Chief Officer is satisfied that the person has sufficient knowledge, skills and experience to enable the person to carry out the relevant function.

(2A) SFRS may enter into arrangements under this section in relation to its function of extinguishing fires only if the person employs fire-fighters.]

(3) Arrangements under this section may include provision as to the terms (including terms as to payment) on which any function is to be carried out.

<sup>F62</sup>(4) In this section, “relevant function” means a function conferred by or under any of sections 8 to 11, 13 and 61.]

*Changes to legislation:* There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)

**Textual Amendments**

- F61** S. 36(1)-(2A) substituted for s. 36(1)(2) (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 112(a), 129(2)**; [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F62** S. 36(4) added (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 112(b), 129(2)**; [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))

**F63** **37 Section 36: directions** **S**

**Textual Amendments**

- F63** S. 37 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 2**; [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))

**CHAPTER 7** **S**

ASSAULTING OR IMPEDING EMPLOYEES AND OTHERS

**38 Amendment of Emergency Workers (Scotland) Act 2005** **S**

- (1) The Emergency Workers (Scotland) Act 2005 (asp 2) shall be amended as follows.
- (2) For paragraph (b) of section 1(3) substitute—
- “(zb) that of a person employed by a relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5)) while discharging any of the authority's functions under any of sections 9 to 13 (fire-fighting, road traffic accidents, other emergencies, emergency directions and other eventualities), 25, 27 and 29 (powers of authorised employees in relation to emergencies, obtaining information and investigating fires) of that Act;
  - (b) that of a person providing assistance under arrangements made by virtue of section 35 (assistance other than from relevant authorities) or 36 (arrangements for carrying out of functions by others) of the Fire (Scotland) Act 2005 other than assistance given to a relevant authority (as defined in section 6 of that Act) for the purpose of carrying out any of the authority's functions conferred on the authority by section 8 or 61 of that Act;”.

**39 Assaulting or impeding employees discharging certain functions** **S**

- (1) A person who assaults, obstructs or hinders another person who is—
- (a) an employee of **[F64SFRS]**; and
  - (b) discharging any of the functions conferred on **[F65SFRS]** under section 8, 17 or 61,
- commits an offence.

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- (2) A person who assaults, obstructs or hinders another person who is providing assistance to <sup>F66</sup>SFRS] under arrangements made by virtue of section 35 for the purpose of the carrying out by <sup>F67</sup>SFRS] of any of the functions conferred on it by virtue of section 8 or 61 commits an offence.
- (3) A person who assaults, obstructs or hinders another person who is by virtue of section 36 carrying out a function conferred on <sup>F68</sup>SFRS] by virtue of section 8 or 61 commits an offence.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a period not exceeding <sup>F69</sup>12] months or to a fine not exceeding level 4 on the standard scale <sup>F70</sup>or to both].

#### Textual Amendments

- F64** Word in s. 39(1)(a) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(14\)\(a\)\(i\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F65** Word in s. 39(1)(b) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(14\)\(a\)\(ii\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F66** Word in s. 39(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(14\)\(b\)\(i\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F67** Word in s. 39(2) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(14\)\(b\)\(ii\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F68** Word in s. 39(3) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(14\)\(c\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F69** Word in s. 39(4) substituted (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 44\(5\)\(a\)](#), 84 (with s. 44(6)); S.S.I. 2007/479, [art. 3](#), Sch.
- F70** Words in s. 39(4) added (10.12.2007) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), [ss. 44\(5\)\(b\)](#), 84 (with s. 44(6)); S.S.I. 2007/479, [art. 3](#), Sch.

## CHAPTER 8 S

### CENTRAL SUPERVISION AND SUPPORT

*<sup>F71</sup>Best value*

#### Textual Amendments

- F71** Ss. 39A-39C and cross-heading inserted (8.8.2012) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 113](#), 129(1)(b)

## 39A S Best value

- (1) It is the duty of SFRS to make arrangements which secure best value.

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- (2) Best value is continuous improvement in the carrying out of SFRS's functions.
- (3) In securing best value, SFRS must maintain an appropriate balance among—
  - (a) the quality of its carrying out of its functions,
  - (b) the cost to SFRS of that carrying out of its functions,
  - (c) the cost to persons of any service provided by SFRS for them on a wholly or partly rechargeable basis.
- (4) In maintaining that balance, SFRS must have regard to—
  - (a) efficiency,
  - (b) effectiveness,
  - (c) economy, and
  - (d) the need to meet the equal opportunity requirements.
- (5) SFRS must carry out its duties under this section in a way which contributes to the achievement of sustainable development.
- (6) In measuring the improvement of the carrying out of SFRS's functions for the purposes of this section, regard is to be had to the extent to which the outcomes of the carrying out of the functions have improved.
- (7) In this section, “equal opportunity requirements” has the same meaning as in Section L2 of Part 2 of Schedule 5 to the Scotland Act 1998 (c.46).

### **39B Best value: further provision** S

- (1) In carrying out its duties under section 39A, SFRS must have regard to the matters mentioned in subsection (2).
- (2) The matters are—
  - (a) any relevant guidance issued by the Scottish Ministers,
  - (b) what are, whether by reference to any generally recognised published code or otherwise, regarded as proper arrangements for the purposes of section 39A(1) (or purposes which include those purposes).
- (3) Before issuing relevant guidance, the Scottish Ministers must consult—
  - (a) SFRS, and
  - (b) such other persons as they think appropriate.
- (4) In the event of a conflict in any respect between the matter to which SFRS is to have regard under paragraph (a) of subsection (2) and the matter to which it is to have regard under paragraph (b) of that subsection, SFRS must in that respect have regard only to matters within paragraph (a).
- (5) In this section “relevant guidance”—
  - (a) means guidance on the carrying out of the duties imposed by section 39A,
  - (b) includes in particular guidance on
    - (i) how to make and what is to be included in the arrangements mentioned in section 39A(1),
    - (ii) how to implement the duty imposed by that section.

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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### 39C Examinations of SFRS by Auditor General **S**

The reference in section 23 of the Public Finance and Accountability (Scotland) Act 2000 (asp 1) to examinations into the economy, efficiency and effectiveness with which resources have been used is, in relation to SFRS, to include a reference to examinations into the arrangements made by SFRS under section 39A.]

#### *Fire and Rescue Framework for Scotland*

### 40 Framework document **S**

- (1) The Scottish Ministers shall prepare a document—
  - (a) setting out priorities and objectives for [F72SFRS] in connection with the carrying out of [F73its functions under this Act or any other enactment,]; and
  - (b) containing—
    - (i) such guidance in connection with the carrying out of any of those functions; and
    - (ii) such other matters relating to [F74SFRS] or those functions, as the Scottish Ministers consider appropriate.
- (2) The Scottish Ministers—
  - (a) shall keep the document prepared under subsection (1) under review; and
  - (b) may from time to time revise it.
- (3) The Scottish Ministers shall carry out the functions conferred on them by subsection (1) and (2) in the manner and to the extent that appears to them to be best calculated to promote—
  - (a) public safety;
  - (b) the efficiency and effectiveness of [F75SFRS]; and
  - (c) efficiency and effectiveness in connection with the matters in relation to which [F76SFRS has] functions.
- (4) The document prepared under subsection (1), and any revision of it which appears to the Scottish Ministers to be significant, shall have effect only when brought into effect by the Scottish Ministers by order.
- (5) In preparing—
  - (a) the document mentioned in subsection (1); and
  - (b) any revision of it which appears to them to be significant,
 the Scottish Ministers shall consult the persons mentioned in subsection (6).
- [F77(6) Those persons are—
  - (a) SFRS,
  - (b) such persons as the Scottish Ministers consider represent employees of SFRS,
  - (c) such persons as the Scottish Ministers consider represent local authorities, and
  - (d) such other persons as the Scottish Ministers consider appropriate.]

#### **Textual Amendments**

- F72** Word in s. 40(1)(a) substituted (1.10.2012) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(15\)\(a\)\(i\)](#); S.S.I. 2012/253, art. 2, [Sch.](#) (with arts. 78(1)(3))



*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

- F73** Words in s. 40(1)(a) substituted (1.10.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(15)(a)(ii)**; S.S.I. 2012/253, art. 2, Sch. (with arts. 78(1)(3))
- F74** Word in s. 40(1)(b)(ii) substituted (1.10.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(15)(a)(iii)**; S.S.I. 2012/253, art. 2, Sch. (with arts. 78(1)(3))
- F75** Word in s. 40(3)(b) substituted (1.10.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(15)(b)(i)**; S.S.I. 2012/253, art. 2, Sch. (with arts. 7, 8(1)(3))
- F76** Words in s. 40(3)(c) substituted (1.10.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(15)(b)(ii)**; S.S.I. 2012/253, art. 2, **Sch.** (with arts. 7, 8(1)(3))
- F77** S. 40(6) substituted (1.10.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(15)(c)**; S.S.I. 2012/253, art. 2, Sch. (with arts. 78(1)(3))

#### Commencement Information

- I3** S. 40 wholly in force at 2.8.2005; s. 40 not in force at Royal Assent see s. 90; s. 40 in force for certain purposes at 6.4.2005 by S.S.I. 2005/207, **art. 3**; s. 40 in force at 2.8.2005 in so far as not already in force by S.S.I. 2005/392, **art. 2(f)**

## 41 Adherence **S**

- [<sup>F78</sup>(1)** In carrying out its functions, SFRS must have regard to the framework document.]
- (2) Subsections (3) and (4) apply where the Scottish Ministers consider that [<sup>F79</sup>SFRS] is failing, or is likely to fail, to act in accordance with the [<sup>F80</sup>framework document].
- (3) The Scottish Ministers may cause an inquiry to be held into the matter.
- (4) Subject to subsection (5), the Scottish Ministers may, for the purpose of securing that [<sup>F81</sup>SFRS] acts in accordance with the document, by order require [<sup>F81</sup>SFRS]—
  - (a) to take; or
  - (b) to refrain from taking,such action as is specified in the order.
- (5) The Scottish Ministers may make an order under subsection (4) only where they consider that it would promote—
  - (a) public safety;
  - (b) the efficiency and effectiveness of [<sup>F82</sup>SFRS]; or
  - (c) efficiency and effectiveness in connection with the matters in relation to which [<sup>F83</sup>SFRS has] functions.
- (6) Before making an order under subsection (4), the Scottish Ministers shall consult [<sup>F84</sup>SFRS].

**<sup>F85</sup>(7)** .....

#### Textual Amendments

- F78** S. 41(1) substituted (1.10.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(16)(a)**; S.S.I. 2012/253, art. 2, Sch. (with arts. 78(1)(3))
- F79** Word in s. 41(2) substituted (1.10.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(16)(b)(i)**; S.S.I. 2012/253, art. 2, Sch. (with arts. 78(1)(3))
- F80** Words in s. 41(2) substituted (1.10.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(16)(b)(ii)**; S.S.I. 2012/253, art. 2, Sch. (with arts. 78(1)(3))
- F81** Words in s. 41(4) substituted (1.10.2012) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **Sch. 7 para. 68(16)(c)**; S.S.I. 2012/253, art. 2, Sch. (with arts. 78(1)(3))

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- F82** Word in s. 41(5)(b) substituted (1.10.2012) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(16\)\(d\)\(i\)](#); S.S.I. 2012/253, art. 2, Sch. (with arts. 78(1)(3))
- F83** Words in s. 41(5)(c) substituted (1.10.2012) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(16\)\(d\)\(ii\)](#); S.S.I. 2012/253, art. 2, Sch. (with arts. 78(1)(3))
- F84** Word in s. 41(6) substituted (1.10.2012) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(16\)\(e\)](#); S.S.I. 2012/253, art. 2, Sch. (with arts. 78(1)(3))
- F85** S. 41(7) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 2](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

## [<sup>F86</sup>CHAPTER 8A S

### PLANNING, REPORTS AND INFORMATION

#### Textual Amendments

- F86** Pt. 2 Ch. 8A heading and ss. 41A-41C inserted (1.10.2012 for the purpose of inserting s. 41A, 1.4.2013 so far as not already in force) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 114, 129\(2\)](#); S.S.I. 2012/253, art. 2, Sch. (with [art. 8\(1\)\(2\)](#)); S.I. 2013/51, art. 2

#### *Strategic plan*

### 41A SFRS's first strategic plan S

- (1) SFRS must prepare a strategic plan.
- (2) A strategic plan is a plan—
  - (a) setting out how SFRS proposes to carry out its functions during the period of 3 years beginning with the day appointed by order under subsection (7),
  - (b) setting out outcomes by reference to which the carrying out of its functions may be measured, and
  - (c) including such other material relating to its functions or to a period other than the period mentioned in paragraph (a) as SFRS thinks fit.
- (3) Before preparing the strategic plan, SFRS must make arrangements for obtaining views on what the plan should contain from persons whom it considers likely to have an interest in how SFRS carries out its functions.
- (4) When preparing the strategic plan, SFRS must—
  - (a) have regard to the framework document,
  - (b) send a copy of a draft plan to the persons mentioned in subsection (5),
  - (c) invite the recipients to comment on the draft plan within such reasonable period as SFRS may specify, and
  - (d) have regard to any comments received within that period.
- (5) Those persons are—
  - (a) each local authority,
  - (b) such persons as SFRS considers represent local authorities,
  - (c) such persons as SFRS considers represent employees of SFRS,
  - (d) such other persons as SFRS considers appropriate.

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*Changes to legislation:* There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)

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- (6) SFRS must submit the strategic plan prepared under subsection (1) to the Scottish Ministers for approval.
- (7) SFRS must use its best endeavours to secure the approval of the Scottish Ministers to the strategic plan (with or without modifications) before such day as the Scottish Ministers may by order appoint.
- (8) If the Scottish Ministers approve the strategic plan, SFRS must—
  - (a) publish the plan, and
  - (b) lay before the Scottish Parliament a copy of the plan.

**Modifications etc. (not altering text)**

**C7** S. 41A(7): appointed day (29.4.2013) by [The Scottish Fire and Rescue Service \(Framework and Appointed Day for Strategic Plan\) Order 2013 \(S.S.I. 2013/97\)](#), arts. 1, 3

**41B**      **Review of plan** **S**

- (1) This section applies where—
  - (a) a strategic plan is approved under section 41A, or
  - (b) a new strategic plan is approved under subsection (4) or (6).
- (2) SFRS may at any time review the plan.
- (3) SFRS must review the plan—
  - (a) if the Scottish Ministers make an order under section 40(4), and
  - (b) before the end of the period of 3 years to which the plan relates.
- (4) Following a review under subsection (2) or (3)(a), SFRS may prepare and submit to the Scottish Ministers for approval a new strategic plan.
- (5) If, following a review under subsection (3)(a), SFRS decides not to prepare a new strategic plan, it must notify the Scottish Ministers of that fact.
- (6) Following a review under subsection (3)(b), SFRS must, before the end of the period of 3 years mentioned in that subsection, prepare and submit to the Scottish Ministers for approval a new strategic plan.
- (7) A new strategic plan is a plan—
  - (a) setting out how SFRS proposes to carry out its functions during the period of 3 years beginning with the plan commencement day,
  - (b) setting out outcomes by reference to which the carrying out of its functions may be measured, and
  - (c) including such other material relating to its functions or to a period other than the period mentioned in paragraph (a) as SFRS thinks fit.
- (8) Before preparing a new strategic plan, SFRS must make arrangements for obtaining views on what the plan should contain from persons whom it considers likely to have an interest in how SFRS carries out its functions.
- (9) When preparing a new strategic plan, SFRS must—
  - (a) have regard to the framework document,
  - (b) send a copy of a draft plan to the persons mentioned in section 41A(5),

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- (c) invite the recipients to comment on the draft plan within such reasonable period as SFRS may specify, and
  - (d) have regard to any comments received within that period.
- (10) SFRS must use its best endeavours to secure the approval of the Scottish Ministers to a new strategic plan (with or without modifications) before the plan commencement day for that plan.
- (11) If the Scottish Ministers approve a new strategic plan, SFRS must—
- (a) publish the plan, and
  - (b) lay before the Scottish Parliament a copy of the plan.
- (12) In this section, “plan commencement day” means—
- (a) in the case of a strategic plan prepared under subsection (4), the day 8 weeks after the day on which SFRS submits a new strategic plan to the Scottish Ministers (or such earlier day as SFRS and the Scottish Ministers may agree),
  - (b) in the case of a strategic plan prepared under subsection (6), the day after the end of the period of 3 years to which the previous strategic plan relates.

#### **41C SFRS's duty to have regard to approved plan S**

- (1) This section applies where a strategic plan or a new strategic plan has been approved by the Scottish Ministers under section 41A or, as the case may be, section 41B.
- (2) In carrying out its functions, SFRS must have regard to the strategic plan in so far as that plan is not inconsistent with the framework document.]

*<sup>F87</sup>Local fire and rescue plans*

#### **Textual Amendments**

**F87** Ss. 41D-41K and cross-heading inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), [ss. 115, 129\(2\)](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

#### **41D Provision of local services S**

- (1) SFRS must ensure that there are adequate arrangements in place for the carrying out of its functions in each local authority area.
- (2) SFRS must involve each local authority in determining priorities and objectives for SFRS in connection with the carrying out in the local authority's area of SFRS's functions.

#### **41E Local fire and rescue plans S**

- (1) As soon as is reasonably practicable after a strategic plan is approved under section 41A, SFRS must prepare a local fire and rescue plan for each local authority area.
- (2) A local fire and rescue plan is a plan setting out—

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- (a) priorities and objectives for SFRS in connection with the carrying out in the local authority's area of SFRS's functions,
  - (b) the reasons for selecting each of those priorities and objectives,
  - (c) how SFRS proposes to deliver those priorities and objectives,
  - (d) in so far as is reasonably practicable, outcomes by reference to which delivery of those priorities and objectives can be measured,
  - (e) how those priorities and objectives are expected to contribute to the delivery of any other relevant local outcomes which are identified by community planning,
  - (f) such other matters relating to the carrying out of SFRS's functions in the local authority's area as SFRS thinks fit.
- (3) In preparing the local fire and rescue plan, SFRS must—
- (a) have regard to the framework document and the strategic plan approved under section 41A,
  - (b) consult
    - (i) such persons as SFRS considers represent employees of SFRS, and
    - (ii) such other persons as SFRS considers appropriate.
- (4) SFRS must submit a plan prepared under subsection (1) for approval to the local authority for the area to which the plan relates.
- (5) If the plan is approved under subsection (4), SFRS must publish it.
- (6) In this section “community planning” means the community planning processes described in Part 2 of the [F88 Community Empowerment (Scotland) Act 2015].

#### Textual Amendments

**F88** Words in s. 41E(6) substituted (20.12.2016) by Community Empowerment (Scotland) Act 2015 (asp 6), s. 142(1), sch. 4 para. 9(a); S.S.I. 2016/410, art. 2(a)

#### 41F Power to review plan **S**

- (1) This section applies where a local fire and rescue plan is published under section 41E(5), subsection (4) or section 41G(5).
- (2) SFRS may at any time review the plan.
- (3) Following a review, SFRS may revise the plan.
- (4) Subsections (3) to (5) of section 41E apply in relation to a plan revised under subsection (3) as they apply in relation to a plan prepared under subsection (1) of that section but subject to the modification in subsection (5).
- (5) The modification is that the reference in section 41E(3)(a) to a plan approved under section 41A is to be read as if it were a reference to a plan approved under section 41A or, as the case may be, a new plan approved under section 41B.

#### 41G Mandatory review **S**

- (1) This section applies where a local fire and rescue plan is published under section 41E(5), section 41F(4) or subsection (5).

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- (2) SFRS must review the local fire and rescue plan if—
  - (a) the Scottish Ministers make an order under section 40(4),
  - (b) a new strategic plan is approved under section 41B, or
  - (c) the plan is not revised under section 41F(3) or subsection (3) during the period of 3 years beginning with the publication of the plan.
- (3) Following a review under subsection (2)(a) or (b), SFRS may revise the plan.
- (4) Following a review under subsection (2)(c), SFRS must revise the plan.
- (5) Subsections (3) to (5) of section 41E apply in relation to a plan revised under subsection (3) or (4) as they apply in relation to a plan prepared under subsection (1) of that section but subject to the modification in subsection (6).
- (6) The modification is that the reference in section 41E(3)(a) to a plan approved under section 41A is to be read as if it were a reference to a plan approved under section 41A or, as the case may be, a new plan approved under section 41B.

#### **41H Provision of information to local authority S**

SFRS must give to a local authority such information or reports relating to the carrying out of SFRS's functions in the authority's area (including reports given by reference to any local fire and rescue plan in force for the area) as the authority may reasonably request.

#### **41J Local Senior Officers S**

- (1) After consulting the local authority, SFRS must designate an employee of SFRS as Local Senior Officer for each local authority area for the purpose of carrying out on behalf of SFRS the delegated functions.
- (2) The delegated functions are—
  - (a) SFRS's functions under sections 41E to 41H,
  - (b) SFRS's function in relation to the provision of feedback to it under section 41K(1),
  - (c) SFRS's functions under [<sup>F89</sup>Part 2 of the Community Empowerment (Scotland) Act 2015 (community planning)],
  - (d) any other functions of SFRS which SFRS delegates to the Local Senior Officer.
- (3) The duty imposed on SFRS by subsection (1) must be carried out by the Chief Officer.
- (4) A person may be designated under subsection (1) in relation to more than one local authority area.
- (5) Subsection (1) does not affect—
  - (a) SFRS's responsibility for the carrying out of the delegated functions,
  - (b) SFRS's ability to carry out the delegated functions.

*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

#### Textual Amendments

**F89** Words in s. 41J(2)(c) substituted (20.12.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), s. 142(1), [sch. 4 para. 9\(b\)](#); S.S.I. 2016/410, art. 2(a)

### 41K Monitoring by local authority **S**

- (1) A local authority may monitor and provide feedback to SFRS on the manner in which SFRS carries out its functions in the authority's area and (in particular) may provide to SFRS—
  - (a) its views on any matter concerning or connected to the manner in which SFRS carries out those functions in the authority's area,
  - (b) any recommendations for improvements in the manner in which SFRS carries out those functions in the authority's area that it thinks fit.
- (2) A local authority may provide feedback by reference to any local fire and rescue plan in force for its area.]

### [<sup>F90</sup>41L Annual report **S**

- (1) As soon as is reasonably practicable after the end of each reporting year, SFRS must—
  - (a) prepare and publish an annual report,
  - (b) give a copy of the report to the Scottish Ministers, and
  - (c) lay a copy of the report before the Scottish Parliament.
- (2) An annual report is a report setting out—
  - (a) an assessment of SFRS's performance during the reporting year in acting in accordance with the framework document,
  - (b) an assessment of SFRS's performance during the reporting year in achieving the outcomes set out in the strategic plan approved under section 41A or, as the case may be, 41B, and
  - (c) such other information as SFRS thinks fit.
- (3) In this section, “reporting year” means—
  - (a) the period beginning on the day on which SFRS is established and ending
    - (i) on 31 March next occurring, or
    - (ii) if that period is of less than 6 months' duration, on 31 March next occurring after that, and
  - (b) each subsequent period of a year ending on 31 March.]

#### Textual Amendments

**F90** S. 41L inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 116](#), 129(2); S.S.I. 2013/51, [art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)

### [<sup>F91</sup>41M Provision of information **S**

- (1) SFRS must provide the Scottish Ministers with such reports, statistics and other information relating to SFRS or its functions as the Scottish Ministers may require.



*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

- (2) Information provided under this section may in particular relate to the outcomes of fires, events and other situations in relation to which SFRS makes provision or takes action.
- (3) Information to be provided under this section must be provided at the times, and in the form, specified by the Scottish Ministers.]

**Textual Amendments**  
**F91** S. 41M inserted (8.8.2012) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 117**, 129(1)(b)

**F92 42 Reporting S**

**Textual Amendments**  
**F92** S. 43 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 2**; [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#))

*F93 Directions*

**Textual Amendments**  
**F93** S. 42A and cross-heading inserted (1.10.2012) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 118**, 129(2); [S.S.I. 2012/253](#), art. 2, Sch.

**42A Directions S**

- (1) The Scottish Ministers may give SFRS general or specific directions.
- (2) SFRS must comply with a direction under this section.
- (3) Directions under this section may vary or revoke earlier directions under this section.
- (4) Directions under this section must be in writing.
- (5) The Scottish Ministers must—
  - (a) publish a direction given under this section, and
  - (b) lay a copy of it before the Scottish Parliament.
- (6) Nothing in this section enables the Scottish Ministers to give a direction in circumstances to which subsection (3) or (4) of section 41 applies.]

*Inspection*

**F92 43 Inspectors of Fire and Rescue Authorities S**

*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

#### Textual Amendments

- F92** S. 43 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 2](#); S.S.I. 2013/51, [art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)

## [<sup>F94</sup>CHAPTER 8B S

### INSPECTION

#### Textual Amendments

- F94** Pt. 2 Ch. 8B inserted (1.1.2013 for specified purposes, 1.4.2013 so far as not already in force) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 119, 129\(2\)](#); S.S.I. 2012/333, [art. 2](#), [Sch.](#) (with [Sch. 2 paras. 2\(11\)3](#)); S.I. 2013/51, [art. 2](#)

### *Inspectors of SFRS*

#### 43A Inspectors of SFRS S

- (1) Her Majesty may by Order in Council appoint—
  - (a) a Chief Inspector of the Scottish Fire and Rescue Service, and
  - (b) such number of Inspectors of the Scottish Fire and Rescue Service as the Scottish Ministers may determine.
- (2) The Scottish Ministers may appoint Assistant Inspectors of the Scottish Fire and Rescue Service.
- (3) The Scottish Ministers must pay to persons appointed under this section such remuneration as the Scottish Ministers may determine.
- (4) The Scottish Ministers may authorise an Inspector to carry out any of the functions conferred on the Chief Inspector by or under this Act or any other enactment if—
  - (a) there is a temporary vacancy in the office of Chief Inspector, or
  - (b) the Scottish Ministers consider that the Chief Inspector is temporarily unable to carry out the Chief Inspector's functions.
- (5) A person who, immediately before the coming into force of section 119 of the Police and Fire Reform (Scotland) Act 2012 (asp 8), is by virtue of section 43—
  - (a) the Chief Inspector of Fire and Rescue Authorities is taken to have been appointed under subsection (1)(a),
  - (b) an Inspector of Fire and Rescue Authorities is taken to have been appointed under subsection (1)(b), and
  - (c) an Assistant Inspector of Fire and Rescue Authorities is taken to have been appointed under subsection (2).
- (6) In this Act—

“Chief Inspector” means a person appointed under subsection (1)(a), and

“Inspector” means a person appointed under subsection (1) or (2).

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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### **43B      Inquiries by Inspectors** S

- (1) An Inspector may inquire into a matter mentioned in subsection (3).
- (2) If directed to do so by the Scottish Ministers, an Inspector must inquire into a matter mentioned in subsection (3).
- (3) The matters are—
  - (a) the state and efficiency of SFRS,
  - (b) whether in carrying out its functions SFRS is complying with its duty under section 39A to make arrangements which secure best value,
  - (c) the manner in which SFRS is carrying out any of its functions.
- (4) In carrying out an inquiry under this section an Inspector may—
  - (a) require SFRS to provide any information or documents relating to the functions of SFRS that the Inspector may require,
  - (b) enter and inspect any premises which are used by SFRS,
  - (c) inspect any equipment which is used by SFRS.
- (5) If an Inspector exercises a power of entry by virtue of subsection (4)(b), the Inspector may—
  - (a) take onto the premises
    - (i) such other persons, and
    - (ii) such equipment,
 as the Inspector considers necessary,
  - (b) require any person present on the premises to provide the Inspector with any information or documents that the Inspector may reasonably request.
- (6) An Inspector may not under subsection (4)(b)—
  - (a) enter or inspect premises occupied as a private dwelling,
  - (b) enter premises by force.
- (7) SFRS must provide such facilities, assistance and co-operation as an Inspector may reasonably request for the purposes of, or in connection with, an inquiry under this section.

### **43C      Inquiries under section 43B(1): reports** S

- (1) This section applies where an inquiry under section 43B(1) has been completed.
- (2) The Chief Inspector must give SFRS a report of the inquiry.
- (3) If a report given to SFRS under subsection (2) relates to a matter mentioned in section 43B(3)(a) or (b), the Chief Inspector must—
  - (a) as soon as is reasonably practicable after giving the report to SFRS, give the Scottish Ministers a copy of the report, and
  - (b) give the Scottish Ministers any other information relating to the inquiry that they may request.
- (4) If a report given to SFRS under subsection (2) does not relate to a matter mentioned in section 43B(3)(a) or (b), the Chief Inspector—
  - (a) may give the Scottish Ministers a copy of the report if the Chief Inspector thinks fit,

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- (b) may give the Scottish Ministers any other information in relation to the report that the Chief Inspector thinks fit,
  - (c) must give the Scottish Ministers any information relating to the inquiry that the Scottish Ministers may request.
- (5) The Chief Inspector must lay before the Scottish Parliament a copy of a report given to the Scottish Ministers under subsection (3)(a).

#### **43D      Inquiries under section 43B(2): reports** **S**

- (1) This section applies where an inquiry under section 43B(2) has been completed.
- (2) The Chief Inspector must give the Scottish Ministers—
- (a) a report of the inquiry, and
  - (b) any other information relating to the inquiry that the Scottish Ministers may request.
- (3) As soon as is reasonably practicable after giving the report to the Scottish Ministers under subsection (2)(a), the Chief Inspector must give a copy of the report to SFRS.
- (4) The Scottish Ministers must lay before the Scottish Parliament a copy of the report given to them under subsection (2)(a).

#### **43E      Inquiry reports: duties of SFRS** **S**

In carrying out its functions, SFRS must have regard to a report given to it under section 43C(2) or 43D(3) and, having done so, must take such measures (if any) as it thinks fit in relation to the report.

#### **43F      Chief Inspector's plan** **S**

- (1) The Chief Inspector must prepare a plan setting out—
- (a) priorities for inquiries to be carried out by Inspectors, and
  - (b) information on how inquiries will be carried out in a way which is proportionate, accountable and transparent.
- (2) The Chief Inspector—
- (a) must keep the plan under review, and
  - (b) may from time to time revise the plan.
- (3) The Chief Inspector must, in preparing a plan (and any revised plan), consult such persons as the Chief Inspector considers appropriate.
- (4) The Chief Inspector must publish the plan (and any revised plan) in such manner as the Chief Inspector thinks fit.

### *Co-operation and information-sharing*

#### **43G      Co-operation and information-sharing: Auditor General** **S**

- (1) The Inspectors and the Auditor General must co-operate and co-ordinate activity with each other with a view to improving the carrying out of their respective functions in relation to SFRS.

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- (2) In particular, the Inspectors and the Auditor General must together make arrangements with a view to—
- (a) securing the exchange of information between them about SFRS,
  - (b) preventing any unnecessary duplication in relation to any inspections, investigations, inquiries or examinations carried out, or to be carried out, by them in relation to SFRS.
- (3) The duties imposed by subsections (1) and (2) do not apply in so far as compliance with them would prevent or delay any of the persons on whom they are imposed in taking any action which the person considers to be necessary as a matter of urgency.]

<sup>F95</sup> **44 Functions of Inspectors of Fire and Rescue Authorities** **S**

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**Textual Amendments**

**F95** Ss. 44-46 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 2**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

<sup>F96</sup> **CHAPTER 8C** **S**

EQUIPMENT, FACILITIES AND SERVICES]

**Textual Amendments**

**F96** Pt. 2 Ch. 8C heading substituted for cross-heading preceding s. 45 (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 7 para. 68(17)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

<sup>F95</sup> **45 Directions for public safety purposes** **S**

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**Textual Amendments**

**F95** Ss. 44-46 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 2**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

<sup>F95</sup> **46 Requirements concerning equipment and services** **S**

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**Textual Amendments**

**F95** Ss. 44-46 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 2**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

*Changes to legislation:* There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)

**47 Provision of equipment etc. S**

- (1) The Scottish Ministers may—
- (a) provide and maintain any equipment, facilities and services;
  - (b) contribute to the provision and maintenance of any equipment, facilities and services;
  - (c) establish and maintain any organisations; or
  - (d) contribute to the establishment and maintenance of any organisations,
- they consider appropriate for promoting the economy, efficiency and effectiveness of [<sup>F97</sup>SFRS].
- (2) Subject to subsection (3), charges may be imposed for the use of equipment, facilities and services—
- (a) provided by the Scottish Ministers under subsection (1)(a); or
  - (b) provided by an organisation established or maintained by the Scottish Ministers under subsection (1)(c).
- (3) Any such charge shall not exceed the costs reasonably incurred in providing the equipment, facility or service to which it relates.

**Textual Amendments**

**F97** Word in s. 47(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(18\)](#); S.S.I. 2013/51, [art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)

*Training*

**<sup>F98</sup>48 Central institution and other centres for education and training S**

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**Textual Amendments**

**F98** Ss. 48-50 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 2](#); S.S.I. 2013/51, [art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)

**CHAPTER 9 S**

EMPLOYMENT

*Negotiation of conditions of service*

**<sup>F98</sup>49 Statutory negotiation arrangements S**

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

#### Textual Amendments

**F98** Ss. 48-50 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 2](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

### <sup>F98</sup>50 **Guidance** S

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#### Textual Amendments

**F98** Ss. 48-50 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 2](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

### *Supplementary*

### 51 **Prohibition on employment of police** S

[<sup>F99</sup>SFRS] may not employ a constable [<sup>F100</sup>(other than a special constable appointed under section 9 of the [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#))] for the purpose of carrying out any of the functions conferred on [<sup>F101</sup>it] by virtue of this Act.

#### Textual Amendments

**F99** Word in s. 51 substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(19\)\(a\)](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

**F100** Words in s. 51 inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), [ss. 120](#), 129(2); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

**F101** Word in s. 51 substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(19\)\(b\)](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

## CHAPTER 10 S

### INTERPRETATION

### 52 **Interpretation of Part 2** S

In this Part, unless the context otherwise requires—

[<sup>F102</sup>“Chief Inspector” has the meaning given by section 43A(6),]

[<sup>F102</sup>“Chief Officer” means the person appointed under paragraph 7 of schedule 1A,]

“emergency” means an event or situation that causes or is likely to cause—

- (a) a person to die;
- (b) a person to suffer serious—
  - (i) injury; or



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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- (ii) illness; or
  - (c) serious harm to the environment (including the life and health of plants and animals and the fabric of buildings);
- “extinguishing”, in relation to a fire, includes containing and controlling;
- [<sup>F102</sup>“framework document” means the document prepared under, and having effect by virtue of, section 40,]
- [<sup>F102</sup>“Inspector” has the meaning given by section 43A(6),]
- “road” has the same meaning as in Part 4 of the New Roads and Street Works Act 1991 (c. 22).

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**Textual Amendments**

**F102** Words in s. 52 inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 7 para. 68\(20\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

**Changes to legislation:**

There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2.