



# Police and Fire Reform (Scotland) Act 2012

2012 asp 8

## PART 2

### FIRE REFORM

#### *The Scottish Fire and Rescue Service*

#### **101 The Scottish Fire and Rescue Service**

(1) After section 1 of the 2005 Act, insert—

##### **“1A The Scottish Fire and Rescue Service**

- (1) There is established a body corporate to be known as the Scottish Fire and Rescue Service, in Gaelic, Seirbheis Smàlaidh agus Teasairginn na h-Alba (referred to in this Act as “SFRS”).
- (2) SFRS has the functions conferred on it by or under this Act or any other enactment.
- (3) Schedule 1A makes further provision about SFRS.”.

(2) After schedule 1 to the 2005 Act, insert—

##### **“SCHEDULE 1A**

*(introduced by section 1A(3))*

##### **THE SCOTTISH FIRE AND RESCUE SERVICE**

#### **Status**

- 1 (1) SFRS—
  - (a) is not a servant or agent of the Crown, and

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- (b) has no status, immunity or privilege of the Crown.
- (2) SFRS's property is not property of, or property held on behalf of, the Crown.

### **Membership**

- 2 (1) SFRS is to consist of—
  - (a) a member appointed by the Scottish Ministers to chair SFRS (“the chairing member”), and
  - (b) not fewer than 10 nor more than 14 other members appointed by the Scottish Ministers.
- (2) The Scottish Ministers may appoint as members only persons who they consider to have skills and expertise relevant to the functions of SFRS.
- (3) The Scottish Ministers may by order modify sub-paragraph (1)(b) by substituting for the minimum or maximum number of members for the time being specified such other number as they think fit.
- (4) Members of SFRS may elect from their number a member to act as deputy to the chairing member.

### **Disqualification**

- 3 (1) A person is disqualified from appointment, and from holding office, as a member of SFRS if that person is or becomes—
  - (a) a member of staff of SFRS,
  - (b) a member of
    - (i) the Scottish Parliament,
    - (ii) the House of Lords,
    - (iii) the House of Commons, or
    - (iv) the European Parliament,
  - (c) disqualified from standing for election as a member of
    - (i) the Scottish Parliament,
    - (ii) the House of Commons, or
    - (iii) a local authority.
- (2) The Scottish Ministers may by order modify sub-paragraph (1).

### **Tenure**

- 4 (1) A member is to be appointed for a period not exceeding 4 years specified in the appointment.
- (2) A member holds and vacates office on such terms and conditions as the Scottish Ministers may determine.
- (3) On ceasing to be a member, a person is eligible for reappointment.
- (4) A member may, by notice in writing to the Scottish Ministers, resign office as a member.

### **Removal from office**

- 5 (1) The Scottish Ministers may remove a member from office if—
- (a) the member is an undischarged bankrupt,
  - (b) the member has, without reasonable excuse, been absent from meetings of SFRS for a period longer than 4 consecutive months,
  - (c) the member has, without reasonable excuse, been absent from 3 consecutive meetings of SFRS,
  - (d) the member has been convicted (whether before or after the member's appointment) of a criminal offence,
  - (e) the member has failed to comply with the terms or conditions of the member's appointment,
  - (f) the Scottish Ministers consider that the member is otherwise unfit to be a member or is unable for any reason to carry out the member's functions.
- (2) For the purposes of sub-paragraph (1)(a), “undischarged bankrupt” means a person—
- (a) whose estate has been sequestrated and who has not been discharged (or against whom a bankruptcy order has been made and is still in force),
  - (b) who has granted a trust deed for, or made a composition or arrangement with, creditors (and has not been discharged in respect of it),
  - (c) who is the subject of a bankruptcy restrictions order, or an interim bankruptcy restrictions order, made under the [Bankruptcy \(Scotland\) Act 1985 \(c.66\)](#) or the [Insolvency Act 1986 \(c.45\)](#),
  - (d) who is the subject of a bankruptcy restrictions undertaking entered into under either of those Acts,
  - (e) who has been adjudged bankrupt (and has not been discharged), or
  - (f) who is subject to any other kind of order, arrangement or undertaking analogous to those mentioned in paragraphs (a) to (d), anywhere in the world.

### **Remuneration, allowances and expenses of members**

- 6 SFRS may pay to its members such remuneration, allowances and expenses as the Scottish Ministers may determine.

### **The Chief Officer**

- 7 (1) SFRS must employ a Chief Officer.
- (2) The Chief Officer may not be a member of SFRS.
- (3) The first Chief Officer is to be appointed by the Scottish Ministers on such terms and conditions as they may determine.
- (4) Each subsequent appointment of a person as the Chief Officer is to be made by SFRS.

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- (5) The appointment of a person under sub-paragraph (4) is subject to the approval of the Scottish Ministers.
- (6) The terms and conditions of a person appointed under sub-paragraph (4) are to be determined by SFRS.

### **SFRS's employees**

- 8 (1) SFRS may employ staff.
- (2) Staff are to be employed on terms and conditions determined by SFRS.
- (3) SFRS may pay or make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who is, or has ceased to be, a member of staff (including the Chief Officer).
- (4) The reference in sub-paragraph (3) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of employment.
- (5) The arrangements mentioned in sub-paragraph (3) may include—
  - (a) the making of contributions or payments towards provision for pensions, allowances or gratuities mentioned there, and
  - (b) the establishment and administration of pension schemes.

### **Committees and sub-committees**

- 9 (1) SFRS may establish committees for any purpose.
- (2) Any committee so established may establish sub-committees.
- (3) The members of any committee or sub-committee may include persons who are not members of SFRS but such persons are not entitled to vote at meetings.
- (4) A committee or sub-committee must not consist entirely of persons who are not members of SFRS.
- (5) SFRS may pay such remuneration, allowances and expenses as are determined by SFRS to a member of a committee or sub-committee who is not—
  - (a) a member of SFRS, or
  - (b) a member of staff of SFRS.

### **Procedure**

- 10 (1) SFRS may regulate—
  - (a) its own procedure (including quorum), and
  - (b) the procedure (including quorum) of its committees and sub-committees.
- (2) The validity of any proceedings or acts of SFRS is not affected by any—
  - (a) vacancy in its membership,
  - (b) defect in the appointment of a member,

- (c) disqualification of a person as a member after appointment.

### **Public access**

- 11 (1) SFRS must ensure that its proceedings and those of its committees and sub-committees are held in public.
- (2) Despite sub-paragraph (1), SFRS or, as the case may be, any of its committees or sub-committees may decide to hold all or part of any proceedings in private.
- (3) SFRS must publish—
  - (a) agendas for its proceedings and those of its committees and sub-committees,
  - (b) the papers relating to those proceedings,
  - (c) such reports of those proceedings as it thinks fit.
- (4) Despite sub-paragraph (3), SFRS may decide that all or part of any agenda, paper or report need not be published.
- (5) SFRS must publish a statement setting out—
  - (a) the circumstances in which its proceedings and those of its committees and sub-committees may be held in private, and
  - (b) the circumstances in which agendas, papers and reports need not be published.

### **Governance and accountability**

- 12 SFRS must try to ensure that each of its members, when acting in the capacity of member—
  - (a) acts consistently with any principle of good governance which appears to SFRS to constitute best practice, and
  - (b) acts in a way which is as accountable and transparent as is reasonably practicable.

### **SFRS's general powers**

- 13 (1) SFRS may do anything that it considers appropriate for the purposes of, or in connection with, the carrying out of its functions.
- (2) SFRS may in particular—
  - (a) enter into contracts,
  - (b) borrow money,
  - (c) acquire and dispose of land and other property,
  - (d) with the authorisation of the Scottish Ministers, purchase compulsorily land,
  - (e) form or promote (whether alone or with another) companies under the [Companies Act 2006 \(c.46\)](#).
- (3) SFRS may not exercise the power in sub-paragraph (2)(b) or (e) without the consent of the Scottish Ministers.
- (4) For the purposes of sub-paragraph (3) consent may be given—

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- (a) with respect to a particular case or class of case,
  - (b) subject to such conditions as the Scottish Ministers consider appropriate.
- (5) The power in sub-paragraph (2)(c) includes the power to accept, on such conditions as SFRS considers appropriate—
- (a) gifts of money, and
  - (b) gifts or loans of other property.
- (6) The powers in sub-paragraph (2)(c) and (d) to acquire and purchase land include power to acquire a servitude or other right in or over land by the creation of a new right.
- (7) The [Acquisition of Land \(Authorisation Procedure\) \(Scotland\) Act 1947 \(c.42\)](#) applies in relation to the compulsory purchase of land under sub-paragraph (2)(d) as if—
- (a) that sub-paragraph were contained in an Act in force immediately before the commencement of that Act, and
  - (b) SFRS were a local authority.

#### **Delegation of functions**

- 14 (1) SFRS may delegate any of its functions to a person mentioned in sub-paragraph (2).
- (2) Those persons are—
- (a) the Chief Officer,
  - (b) any other member of staff of SFRS,
  - (c) any of its committees.
- (3) Sub-paragraph (1) does not affect—
- (a) SFRS's responsibility for the carrying out of the delegated functions, or
  - (b) SFRS's ability to carry out the delegated functions.

#### **Location of principal office premises**

- 15 Any determination by SFRS as to the location of the principal office premises of its members or its Chief Officer is subject to the approval of the Scottish Ministers.

#### **Grants**

- 16 (1) The Scottish Ministers may make grants to SFRS of such amounts as they may determine.
- (2) A grant is made subject to any conditions specified by the Scottish Ministers (including conditions about repayment).

#### **Accounts**

- 17 (1) SFRS must—
- (a) keep proper accounts and accounting records, and

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- (b) prepare for each financial year a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Scottish Ministers as to—
- (a) the information to be contained in it,
  - (b) the manner in which the information is to be presented,
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) SFRS must send each statement of accounts to the Auditor General for Scotland for auditing.
- (4) In this paragraph, “financial year” means—
- (a) the period beginning on the day on which SFRS is established and ending on 31 March next occurring, and
  - (b) each subsequent period of a year ending on 31 March.”.