

FIRE AND RESCUE SERVICES ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Supplementary

Powers in the event of emergency

Section 44: Powers of fire-fighters etc in an emergency

78. This provision provides individual authorised employees of a fire and rescue authority with the powers to deal with fires (which have either broken out or situations where a fire fighter reasonably believes a fire is about to break out), road traffic accidents and other emergencies. It replaces section 30(1) of the Fire Services Act 1947 which was limited to dealing with extinguishing, or preventing the spread of, fires and recognises the wider range of duties of fire-fighters including the work which fire and rescue authorities do in responding to road traffic accidents.

Powers of entry

Section 45: Obtaining information and investigating fires

79. This section allows an authorised employee of a fire and rescue authority to enter premises to obtain information that is needed for the discharge of the core functions of fire fighting (section 7), dealing with road traffic accidents (section 8) and specified emergencies (section 9). In the case of premises where a fire has occurred, the section also allows an authorised employee to gain entry in order to investigate the cause and progression of the fire that has occurred there. Such entry cannot be forcible and 24 hours notice must be given to the occupier of a private dwelling, unless authorised by a justice of the peace.

Section 46: Supplementary powers

80. **Section 46** sets out the powers and the obligations of an employee of a fire and rescue authority who has entered premises under section 45 to gain information or investigate the cause and progression of a fire. The powers and obligations are similar to those applicable to investigations under health and safety legislation.

Section 47: Notices: general

81. **Section 47** provides for the service of notices under section 45 . It is similar to service provisions under fire safety and health and safety law.

Section 48: Notices given electronically

82. **Section 48** provides for the electronic service of notices where the recipient agrees to this.

False alarms

Section 49: False alarms of fire

83. **Section 49** re-enacts section 31 of the Fire Services Act 1947. This section provides that a person who knowingly gives or causes someone else to give a false alarm of fire to a person acting on behalf of a fire and rescue authority is liable to a maximum level 4 fine, prison sentence of 51 weeks, or both.

Consequential provision

Section 51: Abolition of Central Fire Brigades Advisory Council

84. **Section 51** abolishes the Central Fire Brigades Advisory Council, which was established under section 29 of the Fire Services Act 1947 to provide general advice to the Secretary of State on matters relating to the operation of that Act. The Council also served as statutory consultee prior to the exercise by the Secretary of State of certain of his regulation-making powers under the 1947 Act (for example with regard to pensions). Where such regulation-making powers are re-enacted elsewhere in the Act, the Secretary of State will be under a duty to consult with such persons he considers appropriate.