

*These notes refer to the Fire Services Act 2003 (c.36)  
which received Royal Assent on 13th November 2003*

## **FIRE SERVICES ACT 2003**

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### **EXPLANATORY NOTES**

#### **COMMENTARY**

##### ***Section 1: powers of the Secretary of State***

7. This section gives the Secretary of State the power by order to fix or modify conditions of service, including pay, of members of a fire brigade in England and Wales. Members of a fire brigade include whole-time members, who include all operational ranks, control room staff and non-operational staff, and part-time members, who include retained and volunteer members.
8. The power to make an order fixing or modifying conditions of service includes power to make retrospective provision, including from a time before the passing of the Act. However, it does not include power retrospectively to reduce the pay and allowances of members of fire brigades.
9. The section requires that before making an order about conditions of service, the Secretary of State must, if there appears to him to be a “negotiating body” (as defined in [section 3\(2\)](#)), submit his proposals to that body. At present, the only negotiating body is the National Joint Council, a non-statutory body made up of local fire authority employers and representatives of the FBU. Once the proposals are submitted, the Secretary of State must allow at least 21 days for the negotiating body to consider his submission. Before making an order the Secretary of State must then consider any report of the negotiating body which has been produced by them within the period allowed.
10. The power to make an order in respect of conditions of service is exercisable by statutory instrument, subject to the negative resolution procedure in Parliament. Such an order could be applied to make different provision for different classes of fire brigade members.
11. The section also gives the Secretary of State the power to give directions to a fire authority in England and Wales relating to the use or disposal of property or facilities belonging to that fire authority, or to another fire authority or other person who has, or is willing, to make the property or facilities available. It further provides for directions to require payments to be made by a fire authority to another fire authority or person in respect of the use of the property or facilities.
12. Property or facilities include land and equipment or other assets or facilities (see [section 3\(3\)](#)). Examples of purposes for which this power might be useful are to provide joint control rooms, to direct that equipment be placed at the service of third parties or to direct that equipment be distributed on a risk assessment basis.
13. The section requires the Secretary of State to consult persons who, in his opinion, are likely to be affected by his proposals to give directions before doing so.
14. The power to make an order containing a direction in respect of property and facilities is exercisable by statutory instrument, but not subject to the negative resolution procedure. Such an order could be applied to individual fire authorities, groups of fire authorities or all fire authorities.

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15. The section provides that no statutory instrument shall be made under this section more than two years after commencement of the Act, except for the purpose of revoking provision contained in a previous order.