

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

FIRE SERVICES ACT

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Fire Services Act 2003 which received Royal Assent on 13th November 2003. They have been prepared by the Office of the Deputy Prime Minister in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.
3. This Act extends to England, Wales and Northern Ireland only.

SUMMARY

4. The Fire Services Act gives the Secretary of State and the Northern Ireland Department of Health, Social Services and Public Safety power to:
 - fix or modify the conditions of service of fire brigade members, and
 - give directions to fire authorities as to the use or disposal of property or facilities.

Territorial application: Wales

5. The Act has no effect on the powers of the National Assembly for Wales and no other particular effect in Wales.

BACKGROUND

6. A dispute between the Fire Brigades' Union (FBU) and the employers concerning fire-fighters' pay was settled on 13th June 2003. However, negotiations on the detail of the settlement are ongoing.

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

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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.

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.

Section 2: interpretation of June 2003 agreement

16. This section clarifies, for the avoidance of doubt, that nothing in the Act affects the possibility of the FBU and the employers referring the interpretation of the June 2003 agreement to mediation, conciliation or arbitration.

Section 3: supplemental provisions

17. This section sets out definitions of terms used elsewhere in the Act. It defines “fire authority” by reference to other legislation. A fire authority is defined as an authority for the time being constituted as a fire authority by the Fire Services Act 1947 (c. 41) or any combination scheme made under it (see section 38(1) of that Act). Section 4 of that Act (as amended) provides that the council of every non-metropolitan county shall, subject to the provisions of that Act, be the fire authority for the area of the council. The establishment and membership of metropolitan fire and civil defence authorities is dealt with in sections 26 and 27 of the Local Government Act 1985 (c. 51). Section 37 of and paragraph 2(2) of Schedule 11 to that Act provide that references in the 1947 Act to a fire authority include the metropolitan fire and civil defence authorities. The London fire and civil defence authority became the London Fire and Emergency Planning Authority under the Greater London Authority Act 1999 (c. 29).

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18. A fire brigade is defined to mean a brigade maintained under the Fire Services Act 1947.

19. Section 3 also deals with the application of the Act to Northern Ireland (*subsection (4)*). Powers under the Act in its application to Northern Ireland are to be exercised by the Northern Ireland Department of Health, Social Services and Public Safety. In relation to Northern Ireland, references in the Act to the fire authority are references to the Fire Authority of Northern Ireland and references to a fire brigade are references to a fire brigade within the meaning of the Fire Services (Northern Ireland) Order 1984 (S.I. 1984/1821 (N.I.11)). The power to make an order in Northern Ireland is exercised by statutory rule and orders made under section 1(1)(a) (orders to fix or modify conditions of service) are subject to negative resolution in the Northern Ireland Assembly.

COMMENCEMENT

20. The Act commenced on Royal Assent.

HANSARD REFERENCES

The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard reference
House of Commons		
Introduction	21 March 2003	Vol 401 Col 1189
Second Reading	8 May 2003	Vol 404 Cols 856-928
Committee, Report and Third Reading	3rd June 2003	Vol 406 Cols 33-126
Commons Consideration of Lords' Amendments	12 November 2003	Vol 413 Cols 317-336
House of Lords		
Introduction	4th June 2003	Vol 648 Col 1395
Second Reading	19 June 2003	Vol 649 Cols 1014-1043
Grand Committee	3 July 2003, 7 July 2003 and 14 July 2003	Vol 650 Cols GC233-292 and Vol 651 Cols GC1-52 and GC167-210
Report	10 September 2003, 18 September 2003 and 6 October 2003	Vol 652 Cols 401-430 and 1140-1170 and Vol 653 Cols 94-134
Third reading	3rd November 2003	Vol 654 Cols 638-676

Royal Assent – 13 November 2003 House of Lords Hansard Vol 654 Col 1521

House of Commons Hansard Vol 413 Col 393