



# Fire and Rescue Services Act 2004

## 2004 CHAPTER 21

VALID FROM 22/07/2004

**E+W+S**

An Act to make provision about fire and rescue authorities and their functions; to make provision about employment by, and powers of employees of, fire and rescue authorities; to make provision about education and training and pension schemes; to make provision about the supply of water; to make provision about false alarms of fire; to provide for the funding of advisory bodies; and for connected purposes. [22nd July 2004]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

VALID FROM 22/07/2004

VALID FROM 07/09/2004

### PART 1 **E+W**

#### FIRE AND RESCUE AUTHORITIES

#### **1 Fire and rescue authorities** **E+W**

(1) The fire and rescue authority for an area is the authority determined under this section.

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(2) In England—

- (a) a non-metropolitan county council is the fire and rescue authority for the county;
- (b) a non-metropolitan district council for an area for which there is no county council is the fire and rescue authority for the area;
- (c) the London Fire and Emergency Planning Authority is the fire and rescue authority for Greater London;
- (d) a metropolitan county fire and civil defence authority is the fire and rescue authority for the county;
- (e) the Council of the Isles of Scilly is the fire and rescue authority for the Isles of Scilly.

(3) In Wales—

- (a) a county council is the fire and rescue authority for the county;
- (b) a county borough council is the fire and rescue authority for the county borough.

(4) This section is subject to sections 2 and 4 (schemes constituting combined fire and rescue authorities for particular areas).

**2 Power to create combined fire and rescue authorities** **E+W**

(1) The Secretary of State may by order make a scheme constituting a fire and rescue authority for the combined area of two or more existing fire and rescue authorities.

(2) A scheme under this section may be made only if it appears to the Secretary of State that, in the interests of—

- (a) economy, efficiency and effectiveness, or
- (b) public safety,

there should be a single fire and rescue authority for the combined area.

(3) A scheme under this section may be made by the Secretary of State—

- (a) to give effect to a draft scheme submitted to him by the existing authorities in question, or
- (b) on his own initiative.

(4) A scheme under this section made as mentioned in subsection (3)(a) may include any modifications to the draft scheme which seem appropriate to the Secretary of State after consulting the existing authorities in question.

(5) Before making a scheme under this section as mentioned in subsection (3)(b) the Secretary of State must consult—

- (a) the existing authorities in question,
- (b) any local authority all or part of whose area forms part of the combined area, and
- (c) any other persons he considers appropriate.

(6) The Secretary of State may by order vary or revoke a scheme under this section but before doing so must consult—

- (a) any fire and rescue authority which appears to him likely to be affected,

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- (b) any other authority which would, apart from the scheme, be a fire and rescue authority under section 1 and which appears to him likely to be affected,
  - (c) any local authority all or part of whose area forms part of the combined area or would, under the scheme as varied, form part of the combined area, and
  - (d) any other persons he considers appropriate.
- (7) An order under subsection (6) varying or revoking a scheme may include provision for the transfer of staff, property, rights and liabilities from the combined fire and rescue authority to any other fire and rescue authority.
- (8) The Secretary of State must cause an inquiry to be held—
- (a) before making a scheme as mentioned in subsection (3)(b), or
  - (b) before varying or revoking a scheme under this section.
- (9) The Secretary of State is not required to cause an inquiry to be held under subsection (8) (but may do so) if—
- (a) in a case within subsection (8)(a), the existing authorities in question agree to the making of the scheme,
  - (b) in a case within subsection (8)(b), the combined fire and rescue authority and any other authority which would, apart from the scheme, be a fire and rescue authority under section 1 and which would be affected by the variation or revocation, agree to the variation or revocation,
  - (c) in either case, it appears to the Secretary of State that the scheme, variation or revocation is to be made solely for the purpose of giving effect to an order under Part 4 of the Local Government Act 1972 (c. 70), Part 2 of the Local Government Act 1992 (c. 19) or section 17 of the Regional Assemblies (Preparations) Act 2003 (c. 10), or
  - (d) in either case, the Secretary of State considers that, in the interests of public safety, the scheme should be made, varied or revoked without delay.
- (10) Subsection (11) applies if—
- (a) an order is made under Part 4 of the Local Government Act 1972 (c. 70), Part 2 of the Local Government Act 1992 (c. 19) or section 17 of the Regional Assemblies (Preparations) Act 2003 (c. 10) in relation to any area, but
  - (b) the order, or any provision of the order, has not come into force.
- (11) If this subsection applies—
- (a) a scheme under this section may be made as if the order or provision referred to in subsection (10)(b) were in force, and
  - (b) this section has effect in relation to any scheme so made, or proposed to be so made, as if the order or provision were in force;
- but a scheme so made may not come into force before the order or provision does.

### **3 Creation of combined fire and rescue authorities: supplementary E+W**

- (1) A combined fire and rescue authority constituted under a scheme under section 2 must be constituted as a body corporate.
- (2) A scheme under section 2 may, subject to this section, make any supplementary and incidental provision which the Secretary of State considers appropriate.

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- (3) In particular, a scheme under section 2 may make provision about—
- (a) the composition of the combined authority (including provision for the appointment of members by the existing authorities or by the Secretary of State);
  - (b) the proceedings of the combined authority (including different provision in respect of the voting rights of different categories of member);
  - (c) the financing of the combined authority (including provision for the payment of expenses out of a combined fire and rescue service fund maintained by the existing authorities);
  - (d) the discharge of the functions of the combined authority (including provision for the discharge of functions by committees);
  - (e) officers of the combined authority;
  - (f) the acquisition, appropriation and disposal of land by the combined authority (including provision for the acquisition of land by agreement or compulsorily);
  - (g) the transfer of staff, property, rights and liabilities to or from the combined authority;
  - (h) the payment of compensation in respect of loss suffered by any person in consequence of the constitution of the combined authority.
- (4) A scheme under section 2 may not make provision for the appointment by the Secretary of State of a number of members equal to, or exceeding, half the total number of members capable of being appointed.
- (5) If a scheme under section 2 provides for members of a combined authority to be appointed by the Secretary of State, it must also provide that any decision of the authority to—
- (a) issue a precept under section 40 of the Local Government Finance Act 1992 (c. 14), or
  - (b) make the calculations required by section 43 of that Act,
- must be approved by more than half of the members of the authority not appointed by the Secretary of State.

#### **4 Combined authorities under the Fire Services Act 1947 E+W**

- (1) This section applies to a scheme approved under section 5 of the Fire Services Act 1947 (c. 41) (voluntary schemes for combining fire authorities), or made under section 6 of that Act (combination schemes made by the Secretary of State), which is in force immediately before the repeal of those sections by this Act.
- (2) A scheme to which this section applies continues to have effect despite that repeal.
- (3) The combined authority constituted by a scheme to which this section applies is the fire and rescue authority for the area for which it is constituted.
- (4) The Secretary of State may by order vary or revoke a scheme to which this section applies.
- (5) Before making an order under subsection (4) in relation to a scheme the Secretary of State must consult—
  - (a) any fire and rescue authority which appears to him likely to be affected,

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- (b) any other authority which would, apart from the scheme, be a fire and rescue authority under section 1 and which appears to him likely to be affected,
  - (c) any local authority all or part of whose area forms part of the combined area or would, under the scheme as varied, form part of the combined area, and
  - (d) any other persons he considers appropriate.
- (6) Before making an order under subsection (4) varying or revoking a scheme the Secretary of State must cause an inquiry to be held.
- (7) The Secretary of State is not required to cause an inquiry to be held under subsection (6) (but may do so) if—
- (a) the combined authority and any other authority which would, apart from the scheme, be a fire and rescue authority under section 1 and which would be affected by the variation or revocation, agree to the variation or revocation,
  - (b) it appears to the Secretary of State that the scheme is to be varied or revoked solely for the purpose of giving effect to an order made under Part 4 of the Local Government Act 1972 (c. 70), Part 2 of the Local Government Act 1992 (c. 19) or section 17 of the Regional Assemblies (Preparations) Act 2003 (c. 10), or
  - (c) the Secretary of State considers that, in the interests of public safety, the scheme should be varied or revoked without delay.

## **5 Powers of combined fire and rescue authorities** **E+W**

- (1) A fire and rescue authority constituted by a scheme under section 2 or a scheme to which section 4 applies has power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.
- (2) Subsection (1) is subject to the provisions of this Act and the scheme.

VALID FROM 07/09/2004

## **PART 2** **E+W**

### **FUNCTIONS OF FIRE AND RESCUE AUTHORITIES**

#### *Core functions*

## **6 Fire safety** **E+W**

- (1) A fire and rescue authority must make provision for the purpose of promoting fire safety in its area.
- (2) In making provision under subsection (1) a fire and rescue authority must in particular, to the extent that it considers it reasonable to do so, make arrangements for—

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- (a) the provision of information, publicity and encouragement in respect of the steps to be taken to prevent fires and death or injury by fire;
- (b) the giving of advice, on request, about—
  - (i) how to prevent fires and restrict their spread in buildings and other property;
  - (ii) the means of escape from buildings and other property in case of fire.

## 7 **Fire-fighting** **E+W**

- (1) A fire and rescue authority 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) a fire and rescue authority must in particular—
  - (a) secure the provision of the personnel, services and equipment necessary efficiently to meet all normal requirements;
  - (b) secure the provision of training for personnel;
  - (c) make arrangements for dealing with calls for help and for summoning personnel;
  - (d) make arrangements for obtaining information needed for the purpose mentioned in subsection (1);
  - (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 subsection (1).

## 8 **Road traffic accidents** **E+W**

- (1) A fire and rescue authority must make provision for the purpose of—
  - (a) rescuing people in the event of road traffic accidents in its area;
  - (b) protecting people from serious harm, to the extent that it considers it reasonable to do so, in the event of road traffic accidents in its area.
- (2) In making provision under subsection (1) a fire and rescue authority must in particular—
  - (a) secure the provision of the personnel, services and equipment necessary efficiently to meet all normal requirements;
  - (b) secure the provision of training for personnel;
  - (c) make arrangements for dealing with calls for help and for summoning personnel;
  - (d) make arrangements for obtaining information needed for the purpose mentioned in subsection (1);
  - (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 subsection (1).

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## **9**      **Emergencies** **E+W**

- (1) The Secretary of State may by order confer on a fire and rescue authority functions relating to emergencies, other than fires and road traffic accidents in relation to which the authority has functions under section 7 or 8.
- (2) An order under this section may require functions conferred on a fire and rescue authority under this section to be discharged outside the authority's area.
- (3) An order under this section may make provision as to what a fire and rescue authority must or may do for the purpose of a function conferred under this section, and may in particular require or authorise a fire and rescue authority—
  - (a) to secure the provision of personnel, services and equipment;
  - (b) to secure the provision of training for personnel;
  - (c) to make arrangements for dealing with calls for help and for summoning personnel;
  - (d) to make arrangements for obtaining information needed for the purpose of discharging the function;
  - (e) to make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from discharging the function.
- (4) An order under this section may confer a function, including a function of providing particular equipment, on a particular authority.
- (5) Before making an order under this section the Secretary of State must consult any persons he considers appropriate.

### *Other functions*

## **10**     **Directions relating to particular fires and emergencies** **E+W**

- (1) The Secretary of State may direct a fire and rescue authority to take, or not to take, action specified in the direction in relation to—
  - (a) a fire specified in the direction, or
  - (b) an emergency of another kind specified in the direction.
- (2) A direction under this section may require a fire and rescue authority to act outside the authority's area.
- (3) A direction under this section may be varied or revoked by a further such direction.

## **11**     **Power to respond to other eventualities** **E+W**

- (1) A fire and rescue authority may take any action it considers appropriate—
  - (a) in response to an event or situation of a kind mentioned in subsection (2);
  - (b) for the purpose of enabling action to be taken in response to such an event or situation.
- (2) The event or situation is one that causes or is likely to cause—
  - (a) one or more individuals to die, be injured or become ill;
  - (b) harm to the environment (including the life and health of plants and animals).



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(3) The power conferred by subsection (1) includes power to secure the provision of equipment.

(4) The power conferred by subsection (1) may be exercised by an authority outside as well as within the authority's area.

## 12 Other services **E+W**

(1) A fire and rescue authority may provide the services of any persons employed by it or any equipment maintained by it to any person for any purpose that appears to the authority to be appropriate.

(2) A fire and rescue authority may provide services under this section outside as well as within the authority's area.

### *Assistance in discharge of functions*

## 13 Reinforcement schemes **E+W**

(1) A fire and rescue authority must, so far as practicable, enter into a reinforcement scheme with other fire and rescue authorities.

(2) A reinforcement scheme is a scheme for securing mutual assistance as between fire and rescue authorities for the purpose of discharging the functions conferred under section 7, 8 or 9 on any of the authorities participating in the scheme.

(3) A reinforcement scheme may make provision for apportioning between the authorities participating in the scheme any expenses incurred in taking measures to secure the efficient operation of the scheme.

(4) The fire and rescue authorities participating in a reinforcement scheme must notify the Secretary of State of—

- (a) the making of the scheme;
- (b) the variation of the scheme;
- (c) the revocation of the scheme.

(5) The fire and rescue authorities participating in a reinforcement scheme must give effect to it.

## 14 Directions as to reinforcement schemes **E+W**

(1) This section applies if—

- (a) a fire and rescue authority has asked one or more other fire and rescue authorities to agree to the making, variation or revocation of a reinforcement scheme,
- (b) the authorities are unable to agree to the making, terms, variation or revocation of the scheme, and
- (c) one of the authorities asks the Secretary of State to act under this section.

(2) The Secretary of State may direct the authorities concerned—

- (a) to make a reinforcement scheme in the terms specified in the direction;
- (b) to make one or more specified variations to a reinforcement scheme;



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(c) to revoke a reinforcement scheme.

(3) Before giving a direction under subsection (2) the Secretary of State—

- (a) must give both (or all) the authorities concerned an opportunity to make representations to him;
- (b) may cause an inquiry to be held.

## 15 Arrangements with other employers of fire-fighters **E+W**

- (1) A fire and rescue authority may enter into arrangements with a person who employs fire-fighters for securing the provision by that person of assistance for the purpose of the discharge by the authority of a function conferred on it under section 7, 8 or 9.
- (2) But a fire and rescue authority may not enter into arrangements under this section with another fire and rescue authority.
- (3) Arrangements under this section may include provision as to the terms on which assistance is to be provided (including provision as to payment).

### Commencement Information

- 11** S. 15 partly in force; s. 15 not in force at Royal Assent see s. 61; s. 15(2) in force for certain purposes at 9.7.2002 and s. 15(2) in force for further certain purposes at 1.8.2002 and s. 15(1) in force for certain purposes at 1.1.2002 by S.I. 2002/1727, art. 2

### *Discharge of functions by others*

## 16 Arrangements for discharge of functions by others **E+W**

- (1) A fire and rescue authority (the first authority) may enter into arrangements with—
  - (a) another fire and rescue authority, or
  - (b) any other person,for the discharge to any extent by that other authority or person of a function conferred on the first authority under any of sections 6 to 9 and 11.
- (2) But a fire and rescue authority may enter into arrangements with a person under subsection (1) 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 on which any function is to be discharged (including provision as to payment).

## 17 Directions as to arrangements under section 16 **E+W**

- (1) The Secretary of State may direct two fire and rescue authorities—
  - (a) to enter into arrangements under section 16 in the terms specified in the direction;
  - (b) to make one or more specified variations to any such arrangements;
  - (c) to cancel any such arrangements.

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- (2) The Secretary of State may give a direction under subsection (1) on his own initiative or at the request of one of the authorities.
- (3) Before giving a direction under subsection (1) the Secretary of State—
  - (a) must give the authorities concerned an opportunity to make representations to him;
  - (b) may cause an inquiry to be held.
- (4) The Secretary of State may give a direction under subsection (1) only if, after considering—
  - (a) any representations made under subsection (3)(a), and
  - (b) if an inquiry is held under subsection (3)(b), the report of the person by whom it is held,
 he considers it expedient to do so with a view to securing greater economy, efficiency and effectiveness.

#### *Supplementary*

### **18 Training centres** E+W

A fire and rescue authority may establish and maintain one or more training centres for providing education and training in matters in relation to which fire and rescue authorities have functions.

### **19 Charging** E+W

- (1) The Secretary of State may by order authorise a fire and rescue authority to charge a person of a specified description for any action of a specified description taken by the authority.
- (2) An order under subsection (1) may authorise charging for extinguishing fires, or protecting life and property in the event of fires, only in respect of fires which are at sea or under the sea.
- (3) An order under subsection (1) may not authorise charging for emergency medical assistance.
- (4) The power in subsection (1) includes power to authorise a charge to be imposed on, or recovered from, a person other than the person in respect of whom action is taken by the authority.
- (5) If a fire and rescue authority is authorised by an order under subsection (1) to charge for taking action of a particular description and the authority decides to do so—
  - (a) the amount of the charge is to be set by the authority;
  - (b) the authority may charge different amounts in different circumstances (and may charge nothing).
- (6) In setting the amount of a charge, the authority must secure that, taking one financial year with another, the authority's income from charges does not exceed the cost to the authority of taking the action for which the charges are imposed.
- (7) Before making an order under this section the Secretary of State must consult any persons he considers appropriate.

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(8) In this section “financial year” means the period of 12 months ending with 31 March.

(9) The references in subsection (2) to “sea” are not restricted to the territorial sea of the United Kingdom.

## **20 Exercise of powers at or under sea** **E+W**

(1) If a fire and rescue authority has power to act, or is required to act, outside the authority’s area, the authority may exercise the power, or perform the duty, at sea or under the sea.

(2) The references in subsection (1) to “sea” are not restricted to the territorial sea of the United Kingdom.

VALID FROM 07/09/2004

## **PART 3** **E+W**

### ADMINISTRATION

#### *Fire and Rescue National Framework*

## **21 Fire and Rescue National Framework** **E+W**

(1) The Secretary of State must prepare a Fire and Rescue National Framework.

(2) The Framework—

- (a) must set out priorities and objectives for fire and rescue authorities in connection with the discharge of their functions;
- (b) may contain guidance to fire and rescue authorities in connection with the discharge of any of their functions;
- (c) may contain any other matter relating to fire and rescue authorities or their functions that the Secretary of State considers appropriate.

(3) The Secretary of State must keep the terms of the Framework under review and may from time to time make revisions to it.

(4) The Secretary of State must discharge his functions under subsections (1) and (3) in the manner and to the extent that appear to him to be best calculated to promote—

- (a) public safety,
- (b) the economy, efficiency and effectiveness of fire and rescue authorities, and
- (c) economy, efficiency and effectiveness in connection with the matters in relation to which fire and rescue authorities have functions.

(5) In preparing the Framework, or any revisions to the Framework which appear to him to be significant, the Secretary of State—

- (a) must consult fire and rescue authorities or persons considered by him to represent them;

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- (b) must consult persons considered by him to represent employees of fire and rescue authorities;
  - (c) may consult any other persons he considers appropriate.
- (6) The Framework as first prepared, and any revisions to the Framework which appear to the Secretary of State to be significant, have effect only when brought into effect by the Secretary of State by order.
- (7) Fire and rescue authorities must have regard to the Framework in carrying out their functions.

## 22 Intervention by Secretary of State **E+W**

- (1) This section applies if the Secretary of State considers that a fire and rescue authority is failing, or is likely to fail, to act in accordance with the Framework prepared under section 21.
- (2) For the purpose of securing that the authority acts in accordance with the Framework the Secretary of State may by order require the authority—
- (a) to do something;
  - (b) to stop doing something;
  - (c) not to do something.
- (3) The Secretary of State may make an order under subsection (2) only if he considers that making the order would promote—
- (a) public safety,
  - (b) the economy, efficiency and effectiveness of the fire and rescue authority in respect of which the order is made, or
  - (c) economy, efficiency and effectiveness in connection with the matters in relation to which fire and rescue authorities have functions.
- (4) Before making an order under subsection (2) the Secretary of State must give the authority an opportunity to make representations about the order proposed.

## 23 Intervention protocol **E+W**

- (1) The Secretary of State must prepare, and may revise, a protocol about the exercise of his power to make an order under section 22(2).
- (2) The protocol must in particular make provision about persons or descriptions of persons that the Secretary of State will consult before exercising that power.
- (3) The Secretary of State must have regard to the protocol in exercising that power.
- (4) In preparing the protocol, or any revisions to it which appear to him to be significant, the Secretary of State—
- (a) must consult fire and rescue authorities or persons considered by him to represent them;
  - (b) must consult persons considered by him to represent employees of fire and rescue authorities;
  - (c) may consult any other persons he considers appropriate.
- (5) The Secretary of State must publish the protocol for the time being in force in the manner he considers appropriate.

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## 24 Best value **E+W**

- (1) Sections 10 to 13 of the Local Government Act 1999 (c. 27) (best value inspections) apply in relation to a fire and rescue authority's compliance with section 21(7) as they apply in relation to a best value authority's compliance with the requirements of Part 1 of that Act.
- (2) As applied by subsection (1), those sections have effect as if, in section 13(2)(b) and (4), for "give a direction under section 15" there were substituted " make an order under section 22 of the Fire and Rescue Services Act 2004 ".

## 25 Report **E+W**

- (1) The Secretary of State must report to Parliament on—
  - (a) the extent to which fire and rescue authorities are acting in accordance with the Framework prepared under section 21;
  - (b) any steps taken by him for the purpose of securing that fire and rescue authorities act in accordance with the Framework.
- (2) The first report under subsection (1) must be made before the end of the period of two years starting on the date when the Framework as first prepared is brought into effect.
- (3) Every subsequent such report must be made before the end of the period of two years starting on the date on which the last such report was made.

### *Supervision*

## 26 Information **E+W**

A fire and rescue authority must—

- (a) submit to the Secretary of State any reports and returns required by him;
- (b) give the Secretary of State any information with respect to its functions required by him.

## 27 Inquiries **E+W**

The Secretary of State may cause an inquiry to be held into—

- (a) the manner in which a fire and rescue authority is discharging any of its functions;
- (b) the circumstances of, or the steps taken to deal with, a fire, road traffic accident or emergency of another kind in relation to which a fire and rescue authority has functions under this Act.

## 28 Inspectors **E+W**

- (1) Her Majesty may by Order in Council appoint inspectors, and the Secretary of State may appoint assistant inspectors and other officers, for the purpose of obtaining information as to—
  - (a) the manner in which fire and rescue authorities are discharging their functions;
  - (b) technical matters relating to those functions.

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- (2) The Secretary of State may pay to persons appointed under this section remuneration determined by him.
- (3) A person appointed under section 24 of the Fire Services Act 1947 (c. 41) is to be taken to have been appointed under this section.

#### *Equipment etc*

### **29 Equipment, facilities, services and organisations** E+W

- (1) The Secretary of State may provide and maintain, or contribute to the provision and maintenance of, any equipment, facilities and services he considers appropriate for promoting the economy, efficiency and effectiveness of fire and rescue authorities.
- (2) The Secretary of State may establish and maintain, or contribute to the establishment and maintenance of, any organisations he considers appropriate for promoting the economy, efficiency and effectiveness of fire and rescue authorities.
- (3) Charges may be imposed for the use of equipment, facilities and services provided by—
  - (a) the Secretary of State under subsection (1), or
  - (b) an organisation established or maintained by him.
- (4) The Secretary of State may by order make provision requiring one or more fire and rescue authorities—
  - (a) to use and maintain equipment and facilities specified in the order or of a description specified in the order;
  - (b) to use services specified in the order or of a description specified in the order.
- (5) Before making an order under this section the Secretary of State must consult any persons he considers appropriate.

### **30 Directions for public safety purposes** E+W

- (1) The Secretary of State may, if he considers it necessary for the purposes of public safety, by order give general or specific directions to one or more fire and rescue authorities about the use or disposal of property or facilities.
- (2) The provision that may be contained in a direction under subsection (1) given to an authority includes—
  - (a) provision about the use or disposal by the authority of property or facilities belonging to or under the control of the authority;
  - (b) provision about the use by the authority of property or facilities belonging to or under the control of another fire and rescue authority or a person who has made the property or facilities available (or is willing to do so);
  - (c) provision requiring payments to be made by the authority to another fire and rescue authority or to any other person, in respect of the use of property or facilities.
- (3) The references in subsection (2) to property or facilities belonging to a person include land occupied by the person.

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- (4) Before making an order under this section the Secretary of State must consult any persons he considers appropriate.

*Training etc*

**31 Training institution and centres** **E+W**

- (1) The Secretary of State may establish and maintain—
- (a) a central training institution, and
  - (b) one or more local training centres,
- for one or more of the purposes mentioned in subsection (2).
- (2) The purposes are—
- (a) the provision of education and training to employees of fire and rescue authorities;
  - (b) the provision of advice and assistance to fire and rescue authorities in connection with the provision of such education and training;
  - (c) the supervision and regulation of the provision of such education and training;
  - (d) the provision of education and training to persons who provide (or are to provide) such education and training;
  - (e) the provision of education and training (in the United Kingdom or elsewhere) to persons who are not employees of fire and rescue authorities in matters in relation to which fire and rescue authorities have functions;
  - (f) the provision of advice and assistance (in the United Kingdom or elsewhere) in connection with the provision of such education and training.

VALID FROM 07/09/2004

**PART 4** **E+W+S**

EMPLOYMENT

*Negotiating bodies*

**32 Negotiating bodies** **E+W**

- (1) The Secretary of State may by regulations make provision for the establishment of one or more bodies of persons (negotiating bodies) for the purpose of negotiating the conditions of service of employees of fire and rescue authorities.
- (2) Regulations under this section must provide for a negotiating body established by the regulations to be composed of—
- (a) persons representing the interests of some or all fire and rescue authorities;
  - (b) persons representing the interests of some or all employees of fire and rescue authorities;
  - (c) an independent chairman.



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- (3) A chairman is independent for the purposes of subsection (2) if he is not—
  - (a) a member or employee of a fire and rescue authority;
  - (b) a Minister of the Crown;
  - (c) a person employed in the civil service of the State;
  - (d) a member or employee of a body representing the interests of some or all employees of fire and rescue authorities.
- (4) Subsection (5) applies if—
  - (a) a negotiating body is established under this section, and
  - (b) the body includes persons representing the interests of employees of a particular description.
- (5) An agreement as to the conditions of service of employees of that description which is made—
  - (a) by or on behalf of a fire and rescue authority, and
  - (b) by or on behalf of employees of the description concerned,
 is a legally enforceable contract only if its terms were negotiated by means of the negotiating body or in accordance with local negotiation arrangements made by the negotiating body in respect of employees of that description.
- (6) “Local negotiation arrangements” means arrangements made by a negotiating body established under this section for the purpose of enabling conditions of service of employees of fire and rescue authorities to be negotiated at local level.
- (7) Local negotiation arrangements may (in particular) include provision with regard to—
  - (a) the persons or descriptions of persons by whom, or by means of whom, negotiations are authorised to be carried out at local level;
  - (b) the conditions of service and descriptions of conditions of service authorised to be negotiated at local level.
- (8) Local negotiation arrangements may be made by a negotiating body in respect of employees of a particular description only if the negotiating body includes persons representing the interests of employees of that description.
- (9) Before making regulations under this section the Secretary of State must consult any persons he considers appropriate.

### 33 Guidance **E+W**

- (1) The Secretary of State may issue guidance to negotiating bodies in connection with the negotiation of the conditions of service of employees of fire and rescue authorities.
- (2) Negotiating bodies must have regard to any guidance issued under this section in negotiating the conditions of service of employees of fire and rescue authorities.
- (3) In this section “negotiating body” means a negotiating body established under section 32 or any other body of persons which—
  - (a) includes both persons representing the interests of some or all fire and rescue authorities and persons representing the interests of some or all employees of fire and rescue authorities, and

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- (b) is constituted in accordance with what appear to the Secretary of State to be appropriate arrangements for the negotiation of the conditions of service of employees of fire and rescue authorities.

*Pensions etc*

**34 Pensions etc E+W+S**

- (1) The Secretary of State may by order bring into operation one or more schemes making provision for the payment of pensions, allowances and gratuities to or in respect of—
- (a) persons who are or have been employed by a fire and rescue authority or by a Scottish fire authority;
  - (b) persons who die or have died while so employed.
- (2) A scheme brought into operation under this section may in particular—
- (a) provide for the classes of person in respect of whose service awards may be made;
  - (b) provide for treating employment that is not employment by a fire and rescue authority or by a Scottish fire authority as if it were such employment for any purpose of the scheme, to the extent specified in the scheme and subject to any conditions specified in the scheme;
  - (c) provide for the making of contributions by employers and by persons in respect of whose service awards may be made;
  - (d) provide for the repayment of any such contributions or their application for the benefit of persons of a specified description;
  - (e) provide for the making of payments by the Secretary of State, fire and rescue authorities and Scottish fire authorities into a fund to which contributions have been made under the scheme;
  - (f) provide for the making of payments to the Secretary of State out of a fund to which contributions have been made under the scheme;
  - (g) provide for substituting the Secretary of State for a fire and rescue authority or a Scottish fire authority, for any purpose of the scheme;
  - (h) provide for the making to a fire and rescue authority, a Scottish fire authority or the Secretary of State of payments in respect of a person's previous service, including provision for such payments to be made by the Secretary of State;
  - (i) provide for any such payments to be reimbursed out of a fund to which contributions have been made in respect of the previous service to which the payments related;
  - (j) provide for the payment and receipt by fire and rescue authorities or Scottish fire authorities of transfer values or of other lump sum payments made for the purpose of creating or restoring rights to pensions, allowances and gratuities;
  - (k) provide for conditions subject to which an award under the scheme may be made, for the manner in which questions arising under the scheme are to be determined and for appeals from determinations of such questions;
  - (l) provide for excluding or modifying rights to compensation or damages in respect of injuries, in cases where awards are made under the scheme in respect of the injuries;

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- (m) make incidental, supplemental, consequential and transitional provision.
- (3) An order under this section may take effect from a date which is earlier than that on which the order is made.
- (4) An order under this section may vary or revoke a scheme brought into operation by an order under this section.
- (5) Before making, varying or revoking an order under this section the Secretary of State must consult any persons he considers appropriate.
- (6) A person commits an offence if he does an act or makes an omission as a result of which he is injured or becomes ill, for the purpose of obtaining, for himself or another person—
  - (a) an award under a scheme brought into operation under this section, or
  - (b) a sum in respect of the repayment or application of contributions made under such a scheme.
- (7) A person guilty of an offence under subsection (6) is liable—
  - (a) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum;
    - (ii) in Scotland, to imprisonment for a term not exceeding 3 months or a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.
- (8) A scheme brought into operation under this section may authorise the forfeiture of the whole or part of an award or sum obtained by a person who has been convicted of an offence under subsection (6).
- (9) In relation to an offence under subsection (6) committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (7)(a) to 12 months is to be read as a reference to 3 months.
- (10) In this section and section 35 “Scottish fire authority” means—
  - (a) a fire authority which is a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39), or
  - (b) a joint board constituted by virtue of section 36(4)(b) of the Fire Services Act 1947 (c. 41) or section 147(4) of the Local Government (Scotland) Act 1973 (c. 65).

### 35 Information in connection with pensions etc E+W+S

- (1) A fire and rescue authority or a Scottish fire authority may in prescribed circumstances—
  - (a) provide information in connection with the questions mentioned in subsection (2) to a prescribed person;
  - (b) require a person to whom information is provided under paragraph (a) to pay a reasonable fee in respect of any administrative expenses incurred in providing it.
- (2) These are the questions—

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- (a) whether an individual who has opted or transferred out has suffered loss as a result of a contravention which is actionable under section 150 of the Financial Services and Markets Act 2000 (c. 8) (actions for damages in respect of contravention of rules etc.);
  - (b) if so, what payment would need to be made in respect of that individual to the fire and rescue authority or Scottish fire authority concerned to restore the position to what it would have been if the individual had not opted or transferred out.
- (3) Subsection (4) applies if—
- (a) an individual who has opted or transferred out becomes entitled to make contributions to a fire and rescue authority or Scottish fire authority under a scheme brought into operation under section 34, or
  - (b) a payment is made to a fire and rescue authority or Scottish fire authority in respect of such an individual to restore the position to what it would have been if the individual had not opted or transferred out.
- (4) The fire and rescue authority or Scottish fire authority may require a prescribed person to pay a reasonable fee in respect of any administrative expenses incurred in connection with the entitlement or payment.
- (5) An individual is taken to have opted or transferred out for the purposes of this section if—
- (a) for any period during which he is employed by a fire and rescue authority or Scottish fire authority, he does not make contributions to a scheme brought into operation under section 34 but instead makes contributions to a personal pension scheme, or
  - (b) a transfer value is paid in respect of him to a personal pension scheme by a fire and rescue authority or Scottish fire authority.
- (6) In this section—
- “personal pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993 (c. 48);
  - “prescribed” means prescribed by regulations made by the Secretary of State for the purposes of this section.

### **36 Preservation of existing pension scheme** E+W+S

- (1) The Secretary of State may by order provide for the scheme established under section 26 of the Fire Services Act 1947 (c. 41) (Firemen’s Pension Scheme) to continue in force despite the repeal by this Act of that section.
- (2) An order under this section may provide for any enactment amended or repealed by this Act to continue in effect in relation to that scheme unmodified or with any modifications specified in the order.
- (3) An order under this section may in particular make new provision for the name of the scheme.
- (4) This section does not affect any other power in this Act to make transitional or transitory provision.

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## Police

### 37 Prohibition on employment of police **E+W**

No member of a police force may be employed by a fire and rescue authority for the purpose of discharging any of the authority's functions under this Act.

VALID FROM 07/09/2004

## PART 5 **E+W**

### WATER SUPPLY

### 38 Duty to secure water supply etc **E+W**

- (1) A fire and rescue authority must take all reasonable measures for securing that an adequate supply of water will be available for the authority's use in the event of fire.
- (2) A fire and rescue authority may use any suitable supply of water for the purposes of extinguishing a fire or protecting life or property in the event of a fire (but must pay reasonable compensation for the water).
- (3) Subsection (2) is subject to—
  - (a) an agreement under section 39 or 41;
  - (b) section 147 of the Water Industry Act 1991 (c. 56) (charging for emergency use of water).

### 39 Supply of water by water undertakers **E+W**

- (1) A fire and rescue authority may enter into an agreement with a water undertaker for the purposes of section 38(1).
- (2) An agreement under subsection (1) may include terms as to payment to be made to the undertaker, subject to section 147 of the Water Industry Act 1991 (c. 56) (charging for emergency use of water).
- (3) A water undertaker must enter into any agreement reasonably proposed by a fire and rescue authority under subsection (1).
- (4) An obligation of a water undertaker under an agreement under subsection (1), or under subsection (3), is enforceable by the Secretary of State under section 18 of the Water Industry Act 1991 (orders for securing compliance).

### 40 Emergency supply by water undertaker **E+W**

- (1) If a fire and rescue authority requests a water undertaker to provide a supply and pressure of water for the purposes of extinguishing a fire that is greater than the undertaker would otherwise provide, the undertaker must take all necessary steps in order to do so.

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- (2) For the purposes of complying with its obligation under subsection (1) a water undertaker may shut off the water from the mains and pipes in any area.
- (3) No authority or person is liable to any penalty or claim arising because of anything done by a water undertaker in complying with its obligation under subsection (1).
- (4) A water undertaker commits an offence if, without reasonable excuse, it fails to take any step which it is obliged to take under subsection (1).
- (5) A water undertaker guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### 41 Supply by other persons **E+W**

For the purposes of section 38(1), a fire and rescue authority may enter into an agreement—

- (a) to secure the use of water under the control of a person other than a water undertaker;
- (b) to improve access to any such water;
- (c) to lay and maintain pipes and to carry out other works in connection with the use of such water.

#### 42 Fire hydrants **E+W**

- (1) A water undertaker must cause the location of every fire hydrant provided by it to be clearly indicated by a notice or distinguishing mark.
- (2) A water undertaker may place such a notice or mark on a wall or fence adjoining a highway or public place.
- (3) The expenses incurred by a water authority under subsection (1) in relation to a fire hydrant are to be borne by the fire and rescue authority in whose area the hydrant is located.
- (4) The Secretary of State may make regulations providing for uniformity in fire hydrants provided by water undertakers and in the notices or marks indicating their location.
- (5) An obligation of a water undertaker under subsection (1), or regulations under subsection (4), is enforceable by the Secretary of State under section 18 of the Water Industry Act 1991 (c. 56) (orders for securing compliance).
- (6) A person commits an offence if he uses a fire hydrant otherwise than—
  - (a) for the purposes of fire-fighting or for any other purposes of a fire and rescue authority, or
  - (b) for any purpose authorised by the water undertaker or other person to whom the hydrant belongs.
- (7) A person commits an offence if he damages or obstructs a fire hydrant, otherwise than in consequence of use for the purposes mentioned in subsection (6).
- (8) A person guilty of an offence under subsection (6) or (7) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.



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#### 43 Notice of works affecting water supply and fire hydrants **E+W**

- (1) A person who proposes to carry out works for the purpose of supplying water to any part of the area of a fire and rescue authority must give at least 6 weeks' notice in writing to the authority.
- (2) A person who proposes to carry out works affecting a fire hydrant must give at least 7 days' notice in writing to the fire and rescue authority in whose area the hydrant is situated.
- (3) If it is not practicable for a person to give notice as required by subsection (1) or (2), he is to be regarded as having given the notice required by that subsection if he gives notice as soon as practicable.
- (4) A person commits an offence if, without reasonable excuse, he fails to give notice as required by subsection (1) or (2).
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

VALID FROM 07/09/2004

### PART 6 **E+W+S**

#### SUPPLEMENTARY

##### *Powers in the event of emergency etc*

#### 44 Powers of fire-fighters etc in an emergency etc **E+W**

- (1) An employee of a fire and rescue authority who is authorised in writing by the authority for the purposes of this section may do anything he reasonably believes to be necessary—
  - (a) if he reasonably believes a fire to have broken out or to be about to break out, for the purpose of extinguishing or preventing the fire or protecting life or property;
  - (b) if he reasonably believes a road traffic accident to have occurred, for the purpose of rescuing people or protecting them from serious harm;
  - (c) if he reasonably believes an emergency of another kind to have occurred, for the purpose of discharging any function conferred on the fire and rescue authority in relation to the emergency;
  - (d) for the purpose of preventing or limiting damage to property resulting from action taken as mentioned in paragraph (a), (b) or (c).
- (2) In particular, an employee of a fire and rescue authority who is authorised as mentioned in subsection (1) may under that subsection—
  - (a) enter premises or a place, by force if necessary, without the consent of the owner or occupier of the premises or place;
  - (b) move or break into a vehicle without the consent of its owner;
  - (c) close a highway;



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- (d) stop and regulate traffic;
  - (e) restrict the access of persons to premises or a place.
- (3) A person commits an offence if without reasonable excuse he obstructs or interferes with an employee of a fire and rescue authority taking action authorised under this section.
- (4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### *Powers of entry*

### **45 Obtaining information and investigating fires E+W**

- (1) An authorised officer may at any reasonable time enter premises—
- (a) for the purpose of obtaining information needed for the discharge of a fire and rescue authority’s functions under section 7, 8 or 9, or
  - (b) if there has been a fire in the premises, for the purpose of investigating what caused the fire or why it progressed as it did.
- (2) In this section and section 46, “authorised officer” means an employee of a fire and rescue authority who is authorised in writing by the authority for the purposes of this section.
- (3) An authorised officer may not under subsection (1)—
- (a) enter premises by force, or
  - (b) demand admission as of right to premises occupied as a private dwelling unless 24 hours’ notice in writing has first been given to the occupier of the dwelling.
- (4) An authorised officer may not under subsection (1)(b) enter as of right premises in which there has been a fire if—
- (a) the premises are unoccupied, and
  - (b) the premises were occupied as a private dwelling immediately before the fire,
- unless 24 hours’ notice in writing has first been given to the person who was the occupier of the dwelling immediately before the fire.
- (5) An authorised officer may apply to a justice of the peace if—
- (a) he considers it necessary to enter premises for the purposes of subsection (1), but
  - (b) he is unable to do so, or considers that he is likely to be unable to do so, otherwise than by force.
- (6) If on an application under subsection (5) a justice is satisfied that—
- (a) it is necessary for the officer to enter the premises for the purposes of subsection (1), and
  - (b) he is unable to do so, or is likely to be unable to do so, otherwise than by force,
- he may issue a warrant authorising the officer to enter the premises by force at any reasonable time.

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- (7) An authorised officer may also apply to a justice of the peace if he considers it necessary to enter a dwelling for the purposes of subsection (1) without giving notice as required by subsection (3)(b) or (4).
- (8) If on an application under subsection (7) a justice is satisfied that it is necessary for the authorised officer to enter the dwelling for the purposes of subsection (1) without giving notice as required by subsection (3)(b) or (4), the justice may issue a warrant authorising the officer to enter the premises at any time (by force if necessary).
- (9) An authorised officer exercising a power of entry under this section must, if so required, produce evidence of his authorisation under subsection (2), and any warrant under subsection (6) or (8)—
  - (a) before entering the premises, or
  - (b) at any time before leaving the premises.

#### 46 Supplementary powers **E+W**

- (1) If an authorised officer exercises a power of entry under section 45(1)(a), he may—
  - (a) take with him any other persons, and any equipment, that he considers necessary;
  - (b) require any person present on the premises to provide him with any facilities, information, documents or records, or other assistance, that he may reasonably request.
- (2) If an authorised officer exercises a power of entry under section 45(1)(b) he may—
  - (a) take with him any other persons, and any equipment, that he 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 the premises, or to an article or substance found on the premises, that he 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 detain it for as long as is necessary for any of these purposes—
    - (i) to examine it and do anything he has power to do under paragraph (c) or (e);
    - (ii) to ensure that it is not tampered with before his examination of it is completed;
    - (iii) to ensure 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 him with any facilities, information, documents or records, or other assistance, that he may reasonably request.
- (3) If an authorised officer exercises the power in subsection (2)(d) he must—

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- (a) 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 he has taken a sample of it, and
  - (b) if it is practicable to do so, give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.
- (4) If an authorised officer exercises the power in subsection (2)(f) he must 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 he has taken possession of it.
- (5) If in the exercise of any power under section 45 or this section an authorised officer enters premises which are unoccupied, or from which the occupier is temporarily absent, he must on his departure leave the premises as effectively secured against unauthorised entry as he found them.
- (6) A person commits an offence if without reasonable excuse—
- (a) he obstructs the exercise of any power under section 45 or this section, or
  - (b) he fails to comply with any requirement under subsection (1)(b) or (2)(g).
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### 47 Notices: general **E+W**

- (1) The notice required by section 45(3)(b) may be given—
- (a) by delivering it to the occupier of the dwelling,
  - (b) by leaving it for him at the dwelling, or
  - (c) by sending it by post to him at the dwelling.
- (2) The notice required by section 45(4) may be given—
- (a) by delivering it to the person who was the occupier of the dwelling immediately before the fire concerned,
  - (b) by leaving it for him at his proper address, or
  - (c) by sending it by post to him at that address.
- (3) The proper address of a person for the purposes of subsection (2) and section 7 of the Interpretation Act 1978 (c. 30) is—
- (a) if he has specified an address in the United Kingdom as his address for the purposes of the notice required by section 45(4), that address;
  - (b) in any other case, his last known address.
- (4) If the name or address of the person to whom notice under section 45(3)(b) or (4) 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 affixed to a conspicuous part of the dwelling.

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#### 48 Notices given electronically **E+W**

- (1) This section applies if the notice required by section 45(3)(b) or (4) is transmitted to the person to whom it is required to be given (“the recipient”)—
  - (a) by means of an electronic communications network (within the meaning given by section 32 of the Communications Act 2003 (c. 21)), or
  - (b) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.
- (2) The transmission has effect as a delivery of the notice to the recipient only if he has indicated to the fire and rescue authority on whose behalf the transmission is made his willingness to receive a notice under section 45 transmitted in the form and manner used.
- (3) An indication to a fire and rescue authority for the purposes of subsection (2)—
  - (a) must be given to the authority in any manner it requires;
  - (b) may be a general indication or one that is limited to notices of a particular description;
  - (c) must state the address to be used and must be accompanied by any other information which the authority requires for the making of the transmission;
  - (d) may be modified or withdrawn at any time by a notice given to the authority in any manner it requires.
- (4) If the making of the transmission has been recorded in the computer system of the fire and rescue authority on whose behalf it is made, it must be presumed, unless the contrary is proved, that the transmission—
  - (a) was made to the person recorded in that system as receiving it;
  - (b) was made at the time recorded in that system as the time of delivery;
  - (c) contained the information recorded on that system in respect of it.

#### *False alarms*

#### 49 False alarms of fire **E+W**

- (1) A person commits an offence if he knowingly gives or causes to be given a false alarm of fire to a person acting on behalf of a fire and rescue authority.
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction—
  - (a) to a fine not exceeding level 4 on the standard scale,
  - (b) to imprisonment for a term not exceeding 51 weeks, or
  - (c) to both.
- (3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (2)(b) to 51 weeks is to be read as a reference to 3 months.

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### *Advisory bodies*

#### **50 Payments in respect of advisory bodies** **E+W**

- (1) The Secretary of State may make any payments he considers appropriate in respect of the expenses of a body established for the purpose of advising him on any matter in relation to which provision is made by this Act.
- (2) The Secretary of State may make a payment under this section—
  - (a) to any person he considers appropriate;
  - (b) subject to any conditions he considers appropriate.

### *Consequential provision*

#### **51 Abolition of Central Fire Brigades Advisory Council** **E+W**

The Central Fire Brigades Advisory Council is abolished.

#### **52 Repeal of Fire Services Act 1947** **E+W+S**

The Fire Services Act 1947 (c. 41) shall cease to have effect.

#### **53 Amendments** **E+W+S**

- (1) Schedule 1 contains minor and consequential amendments.
- (2) The Secretary of State may by order make—
  - (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision,which he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.
- (3) An order under subsection (2) may, in particular—
  - (a) provide for any provision of this Act which comes into force before another such provision has come into force to have effect, until that other provision has come into force, with any modifications specified in the order, and
  - (b) amend, repeal or revoke any enactment other than one contained in an Act passed in a Session after that in which this Act is passed.
- (4) The amendments that may be made under subsection (3)(b) are in addition to those made by or under any other provision of this Act.

#### **54 Repeals** **E+W+S**

Schedule 2 contains repeals.

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## PART 7 E+W+S

### GENERAL

#### 55 Pre-commencement consultation E+W

- (1) Subsection (2) applies if—
- (a) consultation is required to take place under a provision of this Act, and
  - (b) before the provision comes into force, consultation takes place which would have satisfied the requirements of the provision to any extent if it had been in force.
- (2) Those requirements must be taken to have been satisfied to that extent.

#### 56 Inquiries: supplementary E+W

Subsections (2) to (5) of section 250 of the Local Government Act 1972 (c. 70) (powers in relation to local inquiries) apply in relation to an inquiry under a provision of this Act as they apply in relation to an inquiry under that section.

#### 57 Meaning of “local authority” E+W

In this Act “local authority” means any of these—

- (a) a district council;
- (b) a county council;
- (c) a county borough council;
- (d) a London borough council;
- (e) the Greater London Authority;
- (f) the Common Council of the City of London;
- (g) the Council of the Isles of Scilly.

#### 58 Meaning of “emergency” E+W

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

- (a) one or more individuals to die, be seriously injured or become seriously ill, or
- (b) serious harm to the environment (including the life and health of plants and animals).

#### 59 Financial provision E+W

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State in consequence of this Act;
- (b) any increase attributable to this Act in the sums payable out of money provided by Parliament under another enactment.

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## 60 Orders and regulations **E+W+S**

- (1) References in this section to subordinate legislation are to an order or regulations made by the Secretary of State under this Act.
- (2) Subordinate legislation—
  - (a) may make different provision for different purposes (including different provision for different areas, different authorities and different descriptions of authorities);
  - (b) may include incidental, supplemental, consequential, saving or transitional provision.
- (3) A power to make subordinate legislation is exercisable by statutory instrument.
- (4) A statutory instrument containing (alone or with other provisions) subordinate legislation which amends or repeals any Act or provision of an Act may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) A statutory instrument containing any other subordinate legislation, apart from an order under section 30 or 61, is subject to annulment in pursuance of a resolution of either House of Parliament.

## 61 Commencement **E+W+S**

Parts 1 to 6 come into force in accordance with provision made by the Secretary of State by order.

## 62 Wales **E+W**

- (1) In its application to Wales, the following provisions of this Act have effect as if for each reference to the Secretary of State there were substituted a reference to the National Assembly for Wales—
  - (a) Parts 1 to 6;
  - (b) sections 60 and 61.
- (2) In its application to Wales, section 25(1) has effect as if for “report to Parliament” there were substituted “publish a report”.
- (3) Sections 60(4) and (5) do not apply to an order or regulations made by the National Assembly for Wales.
- (4) Any reference in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 to an Act which is amended by this Act is to be treated as referring to that Act as amended by this Act.
- (5) Subsection (4) does not affect the power to make further Orders varying or omitting that reference.

## 63 Extent **E+W+S**

- (1) Subject to subsection (2), this Act extends to England and Wales only.
- (2) The following provisions also extend to Scotland—
  - (a) sections 34 to 36;



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- (b) in so far as relating to sections 26 to 27A of the Fire Services Act 1947 (c. 41), section 52;
- (c) in so far as relating to—
  - (i) sections 46 and 61 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65),
  - (ii) paragraph 8(b) of Schedule 4 to the Gaming Act 1968 (c. 65),
  - (iii) Schedule 2 to the Pensions (Increase) Act 1971 (c. 56), and
  - (iv) the Superannuation Act 1972 (c. 11),  
section 53(1) and Schedule 1;
- (d) in so far as relating to—
  - (i) sections 26 to 27A of the Fire Services Act 1947,
  - (ii) the Fire Services Act 1951 (c. 27),
  - (iii) sections 8 to 10 of the Fire Services Act 1959 (c. 44),
  - (iv) the Pensions (Increase) Act 1971 (c. 56),
  - (v) the Superannuation Act 1972 (c. 11), and
  - (vi) the Police and Firemen’s Pensions Act 1997 (c. 52),  
section 54 and Schedule 2;
- (e) sections 60 and 61;
- (f) this section;
- (g) section 64.

**64 Short title** **E+W+S**

This Act may be cited as the Fire and Rescue Services Act 2004.

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VALID FROM 07/09/2004

## SCHEDULES

### SCHEDULE 1 **E+W+S**

Section 53

#### MINOR AND CONSEQUENTIAL AMENDMENTS

.....

### SCHEDULE 2 **E+W+S**

Section 54

#### REPEALS

.....

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