



# Fire and Rescue Services Act 2004

## 2004 CHAPTER 21

### PART 1

#### FIRE AND RESCUE AUTHORITIES

#### **1 Fire and rescue authorities**

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

- (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.

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- (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,
  - (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

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- (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**

- (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.
- (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—

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- (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**

- (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,
  - (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**

- (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.