



# Fire and Rescue Services Act 2004

## 2004 CHAPTER 21

### PART 5

#### WATER SUPPLY

#### **38 Duty to secure water supply etc**

- (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).

#### **Commencement Information**

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|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>11</b> | S. 38 in force at 7.9.2004 for specified purposes except in relation to W. and 1.10.2004 otherwise except in relation to W. by <a href="#">S.I. 2004/2304</a> , <a href="#">art. 2</a> (with <a href="#">art. 3</a> ) |
| <b>12</b> | S. 38 in force at 10.11.2004 for W. by <a href="#">S.I. 2004/2917</a> , <a href="#">art. 2</a>                                                                                                                        |

#### **39 Supply of water by water undertakers**

- (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).

*Changes to legislation: There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Part 5. (See end of Document for details)*

- (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).

#### Commencement Information

- I3** S. 39 in force at 7.9.2004 for specified purposes except in relation to W. and 1.10.2004 otherwise except in relation to W. by [S.I. 2004/2304](#), [art. 2](#) (with [art. 3](#))
- I4** S. 39 in force at 10.11.2004 for W. by [S.I. 2004/2917](#), [art. 2](#)

### 40 Emergency supply by water undertaker

- (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.
- (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.

#### Commencement Information

- I5** S. 40 in force at 7.9.2004 for specified purposes except in relation to W. and 1.10.2004 otherwise except in relation to W. by [S.I. 2004/2304](#), [art. 2](#) (with [art. 3](#))
- I6** S. 40 in force at 10.11.2004 for W. by [S.I. 2004/2917](#), [art. 2](#)

### 41 Supply by other persons

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.

*Changes to legislation: There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Part 5. (See end of Document for details)*

#### Commencement Information

- 17** S. 41 in force at 7.9.2004 for specified purposes except in relation to W. and 1.10.2004 otherwise except in relation to W. by [S.I. 2004/2304](#), [art. 2](#) (with [art. 3](#))
- 18** S. 41 in force at 10.11.2004 for W. by [S.I. 2004/2917](#), [art. 2](#)

## 42 Fire hydrants

- (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.

#### Commencement Information

- 19** S. 42 in force at 7.9.2004 for specified purposes except in relation to W. and 1.10.2004 otherwise except in relation to W. by [S.I. 2004/2304](#), [art. 2](#) (with [art. 3](#))
- 110** S. 42 in force at 10.11.2004 for W. by [S.I. 2004/2917](#), [art. 2](#)

## 43 Notice of works affecting water supply and fire hydrants

- (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.

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**Changes to legislation:** There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Part 5. (See end of Document for details)

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- (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.

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#### Commencement Information

- I11** S. 43 in force at 7.9.2004 for specified purposes except in relation to W. and 1.10.2004 otherwise except in relation to W. by [S.I. 2004/2304](#), [art. 2](#) (with [art. 3](#))
- I12** S. 43 in force at 10.11.2004 for W. by [S.I. 2004/2917](#), [art. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Part 5.