



# Fire and Rescue Services Act 2004

## 2004 CHAPTER 21

### PART 6

#### SUPPLEMENTARY

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

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

- (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;
  - (d) stop and regulate traffic;
  - (e) restrict the access of persons to premises or a place.

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*Changes to legislation: There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Part 6. (See end of Document for details)*

- (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.

#### Commencement Information

- II** S. 44 in force at 7.9.2004 for specified purposes except in relation to W. by S.I. 2004/2304, art. 2 (with art. 3)

### *Powers of entry*

#### **45 Obtaining information and investigating fires**

- (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,

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he may issue a warrant authorising the officer to enter the premises by force at any reasonable time.

- (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.

#### Commencement Information

- I2** S. 45 in force at 7.9.2004 for specified purposes except in relation to W. by S.I. 2004/2304, art. 2 (with art. 3)

## 46 Supplementary powers

- (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;

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- (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—
- (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.

#### Commencement Information

**I3** [S. 46](#) in force at 7.9.2004 for specified purposes except in relation to W. by [S.I. 2004/2304](#), [art. 2](#) (with [art. 3](#))

#### 47 Notices: general

- (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;

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- (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.

#### Commencement Information

- I4** S. 47 in force at 7.9.2004 for specified purposes except in relation to W. by S.I. 2004/2304, art. 2 (with art. 3)

## 48 Notices given electronically

- (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.

#### Commencement Information

- I5** S. 48 in force at 7.9.2004 for specified purposes except in relation to W. by S.I. 2004/2304, art. 2 (with art. 3)

*Status: Point in time view as at 07/09/2004.*

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### *False alarms*

#### **49 False alarms of fire**

- (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.

#### **Commencement Information**

**I6** [S. 49](#) in force at 7.9.2004 for specified purposes except in relation to W. by [S.I. 2004/2304](#), [art. 2](#) (with [art. 3](#))

### *Advisory bodies*

#### **50 Payments in respect of advisory bodies**

- (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.

#### **Commencement Information**

**I7** [S. 50](#) in force at 7.9.2004 for specified purposes except in relation to W. by [S.I. 2004/2304](#), [art. 2](#) (with [art. 3](#))

### *Consequential provision*

#### **51 Abolition of Central Fire Brigades Advisory Council**

The Central Fire Brigades Advisory Council is abolished.

#### **Commencement Information**

**I8** [S. 51](#) in force at 7.9.2004 for specified purposes except in relation to W. by [S.I. 2004/2304](#), [art. 2](#) (with [art. 3](#))

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## 52 Repeal of Fire Services Act 1947

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

### Commencement Information

**I9** S. 52 in force at 7.9.2004 for specified purposes except in relation to W. by S.I. 2004/2304, art. 2 (with art. 3)

## 53 Amendments

- (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.

### Commencement Information

**I10** S. 53 in force at 7.9.2004 for specified purposes except in relation to W. by S.I. 2004/2304, art. 2 (with art. 3)

## 54 Repeals

Schedule 2 contains repeals.

### Commencement Information

**I11** S. 54 in force at 7.9.2004 for specified purposes except in relation to W. by S.I. 2004/2304, art. 2 (with art. 3)

**Status:**

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**Changes to legislation:**

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