



# Fire and Rescue Services Act 2004

## 2004 CHAPTER 21

### PART 6

#### SUPPLEMENTARY

##### *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—

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

- (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.
- (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

- I1** S. 45 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)
- I2** S. 45 in force at 10.11.2004 for W. by S.I. 2004/2917, art. 2

## 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;

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- (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—
- (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. and 1.10.2004 otherwise except in relation to W. by S.I. 2004/2304, art. 2 (with art. 3)
- I4** S. 46 in force at 10.11.2004 for W. by S.I. 2004/2917, art. 2

#### 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,

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- (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.

#### Commencement Information

- 15** S. 47 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)
- 16** S. 47 in force at 10.11.2004 for W. by S.I. 2004/2917, art. 2

#### 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.

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- (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.

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**Commencement Information**

- I7** S. 48 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**)
- I8** S. 48 in force at 10.11.2004 for W. by S.I. 2004/2917, **art. 2**

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