

SCHEDULES

SCHEDULE 2

THE LONDON FIRE COMMISSIONER

PART 1

AMENDMENTS TO THE GREATER LONDON AUTHORITY ACT 1999

- 1 The Greater London Authority Act 1999 is amended as follows.
- 2 In section 21 (disqualification from being the Mayor or an Assembly member) after subsection (1) insert—
 - “(1A) Subsection (1)(a) does not prevent a person appointed under section 67(1)(b) as the Deputy Mayor for Fire, or appointed under section 67(1)(b) and designated as the Deputy Mayor for Fire, from being elected as or being an Assembly member.”
- 3 In section 31(1) (limits of the Authority’s general power) for paragraph (c) substitute—
 - “(c) the London Fire Commissioner.”
- 4 (1) Section 45 (the Mayor’s periodic report to the Assembly) is amended as follows.
 - (2) In subsection (6) omit “except as provided by subsection (7) below.”
 - (3) Omit subsections (7) and (8).
- 5 (1) Section 60A (confirmation hearings etc for certain appointments by the Mayor) is amended as follows.
 - (2) In subsection (3) (offices to which section 60A applies)—
 - (a) before the entry for the chairman or deputy chairman of Transport for London insert—
 - “London Fire Commissioner (see section 327A);
 - person appointed by the Mayor under section 67(1)(b) as the Deputy Mayor for Fire;”, and
 - (b) omit the entry for the chairman of the London Fire and Emergency Planning Authority.
 - (3) After subsection (4) insert—
 - “(4A) This section also applies in any case where the Mayor proposes to designate as the Deputy Mayor for Fire a person appointed under section 67(1)(b).
 - (4B) References in section 327H and Schedule 4A to appointment of a person as the Deputy Mayor for Fire (however expressed) include such a designation.”

Status: This is the original version (as it was originally enacted).

- 6 (1) Section 61 (power to require attendance at Assembly meetings) is amended as follows.
- (2) In subsection (11) omit “, except as provided by subsection (12) below,”.
- (3) Omit subsections (12) and (13).
- 7 In section 67(1)(b) (power of Mayor to appoint ten members of staff in addition to the Mayor’s political advisers) for “ten” substitute “eleven”.
- 8 In section 68 (disqualification and political restriction) after subsection (3) insert—
- “(3A) Subsections (1) and (2) above do not prevent a person appointed under section 67(1)(b) as the Deputy Mayor for Fire, or appointed under section 67(1)(b) and designated as the Deputy Mayor for Fire, from becoming or remaining a member of the Assembly or any other local authority within the meaning of sections 1, 2 and 3A of the Local Government and Housing Act 1989.”
- 9 In section 70 (terms and conditions of employment) after subsection (7) insert—
- “(7A) Subsection (3) does not prevent—
- (a) a person appointed under section 67(1)(b) as the Deputy Mayor for Fire, or
- (b) a person appointed under section 67(1)(b) and designated as the Deputy Mayor for Fire,
- from being required to perform any work or services as an Assembly member.”
- 10 After Part 6 insert—

“PART 6A

THE LONDON FIRE COMMISSIONER

327A The London Fire Commissioner

- (1) There is to be a London Fire Commissioner.
- (2) The London Fire Commissioner is a corporation sole.
- (3) The Mayor is to appoint the London Fire Commissioner.
- (4) The London Fire Commissioner has—
 - (a) the functions of the fire and rescue authority for Greater London under the Fire and Rescue Services Act 2004, and
 - (b) the other functions conferred on the Commissioner by or by virtue of any other enactment.
- (5) The London Fire Commissioner must secure that the London Fire and Rescue Service is efficient and effective.
- (6) In subsection (5) “the London Fire and Rescue Service” means the personnel, services and equipment secured by the London Fire Commissioner for the purposes of the carrying out of the Commissioner’s functions under—
 - (a) section 6 of the Fire and Rescue Services Act 2004 (fire safety),

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- (b) section 7 of that Act (fire-fighting),
 - (c) section 8 of that Act (road traffic accidents),
 - (d) any order under section 9 of that Act (emergencies) which applies to the Commissioner, or
 - (e) any other provision of or made under an enactment which confers functions on a fire and rescue authority.
- (7) The Mayor must hold the London Fire Commissioner to account for the exercise of the Commissioner’s functions.
- (8) Schedule 27A makes further provision about the London Fire Commissioner.

327B Disqualification for appointment as London Fire Commissioner

- (1) A person may not be appointed as the London Fire Commissioner unless the person has reached the age of 18.
- (2) A person is disqualified from being appointed as, or being, the London Fire Commissioner if the person is a member of the Assembly or a London borough council.
- (3) A person is disqualified from being appointed as, or being, the London Fire Commissioner if—
- (a) the person is the subject of—
 - (i) a debt relief restrictions order under paragraph 1 of Schedule 4ZB to the Insolvency Act 1986,
 - (ii) an interim debt relief restrictions order under paragraph 5 of that Schedule,
 - (iii) a bankruptcy restrictions order under paragraph 1 of Schedule 4A to that Act, or
 - (iv) a bankruptcy restrictions interim order under paragraph 5 of that Schedule,
 - (b) a debt relief restrictions undertaking has effect in respect of the person under paragraph 7 of Schedule 4ZB to that Act,
 - (c) the person has been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any imprisonable offence (whether or not sentenced to a term of imprisonment in respect of the offence), or
 - (d) the person is incapable of being elected as a member of the House of Commons, or is required to vacate a seat in the House of Commons, under Part 3 of the Representation of the People Act 1983 (consequences of corrupt or illegal practices).
- (4) For the purposes of subsection (3)(c) “an imprisonable offence” means an offence—
- (a) for which a person who has reached the age of 18 may be sentenced to a term of imprisonment, or
 - (b) for which, in the case of such a person, the sentence is fixed by law as life imprisonment.
- (5) For the purposes of subsection (3)(c) a person is to be treated as having been convicted—

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- (a) on the expiry of the ordinary period allowed for an appeal or application in respect of the conviction, or
- (b) if an appeal or application is made in respect of the conviction, when the appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution.

327C Suspension and removal of London Fire Commissioner

- (1) The Mayor may with the approval of the Secretary of State suspend the London Fire Commissioner from duty.
- (2) If the Mayor suspends the London Fire Commissioner from duty, the Mayor must notify the Secretary of State of the suspension.
- (3) The Mayor may, subject to subsections (5) and (6), and with the approval of the Secretary of State, call upon the London Fire Commissioner to resign or retire.
- (4) The London Fire Commissioner must resign or retire if called upon to do so in accordance with subsection (3).
- (5) Before calling upon the London Fire Commissioner to resign or retire, the Mayor must—
 - (a) give the Commissioner a written explanation of the reasons why the Mayor is proposing to call for the Commissioner’s resignation or retirement,
 - (b) give the Commissioner the opportunity to make written representations about the proposal to call for the Commissioner’s resignation or retirement, and
 - (c) consider any written representations made by the Commissioner.
- (6) The Mayor must comply with subsection (5) before seeking the approval of the Secretary of State to call upon the London Fire Commissioner to resign or retire.

327D Directions etc by the Mayor

- (1) The Mayor may issue to the London Fire Commissioner—
 - (a) guidance as to the manner in which the Commissioner is to exercise the Commissioner’s functions,
 - (b) general directions as to the manner in which the Commissioner is to exercise the Commissioner’s functions, or
 - (c) specific directions as to the exercise of the Commissioner’s functions.
- (2) Directions issued by the Mayor under subsection (1)(c) above may include a direction not to exercise a power specified in the direction.
- (3) The guidance or directions which may be issued by the Mayor under subsection (1) above include guidance or directions as to the manner in which the London Fire Commissioner—
 - (a) is to perform any of the Commissioner’s duties, or
 - (b) is to conduct any legal proceedings.

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- (4) In exercising any power conferred by this section, the Mayor must have regard to—
- (a) the Fire and Rescue National Framework, and
 - (b) fire safety enforcement guidance.
- (5) In this section—
- “the Fire and Rescue National Framework” means the Fire and Rescue National Framework prepared under section 21 of the Fire and Rescue Services Act 2004;
- “fire safety enforcement guidance” means guidance under article 26 (enforcement) of the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) given by the Secretary of State to the London Fire Commissioner in the Commissioner’s capacity as an enforcing authority for the purposes of that Order.

327E Directions to the Mayor by the Secretary of State

- (1) This section applies if the Secretary of State thinks that any guidance or directions (“the inconsistent guidance or directions”) issued under section 327D by the Mayor are inconsistent with—
- (a) the Fire and Rescue National Framework, or
 - (b) fire safety enforcement guidance.
- (2) In order to remove the inconsistency, the Secretary of State may direct the Mayor—
- (a) to make such revisions of the inconsistent guidance or directions as may be specified by the Secretary of State in the direction, or
 - (b) if the inconsistency arises from a specific direction under section 327D(1)(c) above, to revoke the direction.
- (3) Any direction given by the Secretary of State under subsection (2) above must specify or otherwise identify the inconsistency in question.
- (4) The Mayor must comply with any direction under subsection (2) above.
- (5) In this section “the Fire and Rescue National Framework” and “fire safety enforcement guidance” have the same meanings as in section 327D.

327F The Deputy Mayor for Fire

- (1) The Mayor may arrange for the Deputy Mayor for Fire to exercise any function of the Mayor relating to fire and rescue.
- (2) In this Part “the Deputy Mayor for Fire” means—
- (a) a person who has been appointed by the Mayor under section 67(1)
 - (b) as the Deputy Mayor for Fire, or
 - (b) a person who has been appointed by the Mayor under section 67(1)
 - (b) and designated by the Mayor as the Deputy Mayor for Fire.
- (3) In subsection (1) the reference to the functions of the Mayor relating to fire and rescue are to the Mayor’s functions under—
- (a) section 327A(7) (duty to hold London Fire Commissioner to account), and

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- (b) section 327D(1) (power to give guidance and directions to the London Fire Commissioner).
- (4) Section 327E applies in relation to the exercise of functions under section 327D(1) by the Deputy Mayor for Fire as it applies in relation to their exercise by the Mayor.

327G Scrutiny of documents prepared by London Fire Commissioner

- (1) This section applies to a document which is prepared and published by the London Fire Commissioner in accordance with the Fire and Rescue National Framework and which—
 - (a) sets out the Commissioner’s priorities and objectives, for the period covered by the document, in connection with the discharge of the Commissioner’s functions, or
 - (b) contains a statement of the way in which the Commissioner has had regard, in the period covered by the document, to the Framework and to any document within paragraph (a) prepared by the Commissioner for that period.
- (2) The Commissioner must, before publishing the document or any revision to it, send a copy of the document or revision in draft to the Mayor and the Assembly.
- (3) The Commissioner may not publish the document or any revision to it unless—
 - (a) the Assembly has had an opportunity to review the draft document or revision, and make a report on it to the Mayor, under section 327I(1), and
 - (b) the Mayor has approved the draft document or revision.
- (4) In this section “the Fire and Rescue National Framework” has the same meaning as in section 327D.

327H The Assembly fire and emergency committee

- (1) The Assembly must arrange for the functions referred to in subsection (2) to be discharged on its behalf by a particular committee of the Assembly (“the fire and emergency committee”).
- (2) Those functions (“the fire and emergency committee functions”) are—
 - (a) the functions conferred on the Assembly by section 327I, and
 - (b) the functions conferred on the Assembly by section 60A and Schedule 4A in relation to the appointment of the London Fire Commissioner and the Deputy Mayor for Fire.
- (3) The Assembly may not arrange for the fire and emergency committee functions to be discharged on its behalf otherwise than in accordance with subsection (1).
- (4) The Assembly may not arrange for any of its other functions to be discharged by the fire and emergency committee.

Status: This is the original version (as it was originally enacted).

- (5) The special scrutiny functions may only be exercised at a meeting of the whole committee; but that is without prejudice to rules of procedure about the quorum of a meeting of the whole committee.
- (6) Any provision made by or by virtue of an enactment which applies to committees of the Assembly, apart from the excluded provisions, applies to the fire and emergency committee as if the fire and emergency committee functions were to be discharged by the committee by virtue of arrangements under section 54(1)(a).
- (7) In subsection (6) “the excluded provisions” means—
 - (a) section 54(5), so far as it provides for the Assembly to retain power to exercise functions delegated to a committee, and
 - (b) section 55 (Assembly committees and sub-committees).
- (8) Any provision made by or by virtue of an enactment which confers, or relates to, the fire and emergency committee functions is to be read with the appropriate modifications; in particular—
 - (a) references to the Assembly are to be read as references to the fire and emergency committee, and
 - (b) references to proceedings of the Assembly are to be read as references to proceedings of the fire and emergency committee.
- (9) For the purposes of subsection (8), references to the fire and emergency committee include references to a sub-committee or member (if any) by whom functions are to be discharged in accordance with section 54(3).
- (10) The following provisions apply to the fire and emergency committee—
 - (a) the number of members of the committee, and their term of office, are to be fixed by the Assembly;
 - (b) persons who are not members of the Assembly may be members of the committee.
- (11) The following provisions apply to any sub-committee by which fire and emergency committee functions are to be discharged—
 - (a) the number of members of the sub-committee, and their term of office, are to be fixed by the fire and emergency committee;
 - (b) persons who are not members of the Assembly may be members of the sub-committee.
- (12) The fire and emergency committee functions must be exercised with a view to supporting the effective exercise of the functions of the London Fire Commissioner.
- (13) In this section “special scrutiny functions” means the functions conferred—
 - (a) by section 327I(1), or
 - (b) by section 60A and Schedule 4A in relation to the appointment of the London Fire Commissioner and the Deputy Mayor for Fire.

327I Functions to be discharged by the fire and emergency committee

- (1) The Assembly must—

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- (a) review any draft document or revision given to the Assembly by the London Fire Commissioner under section 327G(2), and
 - (b) make a report or recommendations on the draft document or revision to the Mayor.
- (2) The Assembly must keep under review the exercise of the functions of the London Fire Commissioner, insofar as the Assembly is not otherwise required to do so by the other provisions of this section or by Schedule 4A.
- (3) For the purposes of subsection (2), the powers of the Assembly include, in particular, power to investigate, and prepare reports about—
- (a) any actions and decisions of the London Fire Commissioner,
 - (b) any actions and decisions of an officer of the London Fire Commissioner,
 - (c) matters relating to the functions of the London Fire Commissioner,
 - (d) matters in relation to which the functions of the London Fire Commissioner are exercisable, or
 - (e) any other matters which the Assembly considers to be of importance to fire and rescue services in Greater London.
- (4) The Assembly may investigate, and prepare reports about, the actions and decisions of the Deputy Mayor for Fire.
- (5) The Assembly may submit proposals to the London Fire Commissioner.
- (6) The Assembly may require a person referred to in subsection (7)—
- (a) to attend proceedings of the Assembly for the purpose of giving evidence, or
 - (b) to produce to the Assembly documents in the person’s possession or under the person’s control.
- (7) Those persons are—
- (a) the Deputy Mayor for Fire,
 - (b) the London Fire Commissioner,
 - (c) any officer of the London Fire Commissioner,
 - (d) any person who has within the 8 years prior to the date of the requirement to be imposed under subsection (6) been the Deputy Mayor for Fire or the London Fire Commissioner.
- (8) Nothing in subsection (6) requires an officer of the London Fire Commissioner to give any evidence, or produce any document, which discloses advice given to the London Fire Commissioner by that officer.
- (9) The following provisions apply (with appropriate modifications) to a requirement under subsection (6) as they apply to a requirement under section 61(1)—
- (a) section 61(14) (meaning of document etc);
 - (b) section 62(3) to (6) (procedure for requiring attendance);
 - (c) section 63 (restriction of information);
 - (d) section 64 (failure to attend proceedings);
 - (e) section 65 (openness).”

11 (1) Omit Part 7 (the London Fire and Emergency Planning Authority).

Status: This is the original version (as it was originally enacted).

- (2) The repeal of section 328 in that Part by sub-paragraph (1) does not affect the continued operation of subsections (5) to (7) of that section, and subsection (9) of that section so far as applying to those subsections.
- (3) In the application of those subsections by virtue of sub-paragraph (2), references in those subsections to the Fire etc Authority are to be read as references to the London Fire Commissioner.
- 12 In section 419(1) (bodies to be treated as local authorities for the purposes of enactments relating to taxation) for paragraph (c) substitute—
“(c) the London Fire Commissioner.”
- 13 (1) Section 424(1) (interpretation) is amended as follows.
(2) Omit the definition of “the Fire etc Authority”.
(3) In the definition of “functional body” for paragraph (d) substitute—
“(d) the London Fire Commissioner.”
- 14 (1) Schedule 4A (confirmation hearings etc for certain appointments) is amended as follows.
(2) In paragraph 1 after sub-paragraph (7) insert—
“(8) Paragraph 9 does not apply in relation to—
(a) the appointment of a person as the London Fire Commissioner, or
(b) the appointment of a person as the Deputy Mayor for Fire under section 67(1)(b),
(but see section 327H).
(9) Paragraph 11 applies to—
(a) the appointment of a person as the London Fire Commissioner,
and
(b) the appointment of a person as the Deputy Mayor for Fire under section 67(1)(b) if the candidate is not a member of the Assembly.
(10) Paragraphs 2, 4 and 5 are subject to paragraph 11.”
- (3) After paragraph 10 insert—
“11 (1) The Assembly may veto—
(a) the appointment of the candidate as the London Fire Commissioner, or
(b) the appointment of the candidate as the Deputy Mayor for Fire if the candidate is not a member of the Assembly.
(2) The exercise of that power of veto in relation to an appointment is not valid unless the Assembly—
(a) has held a confirmation meeting in relation to the appointment before the exercise of the power; and
(b) notifies the Mayor of the veto within the period of 3 weeks described in paragraph 4(3).
(3) If the Assembly vetoes the appointment of the candidate, the Mayor must not appoint the candidate.

Status: This is the original version (as it was originally enacted).

- (4) References in this Schedule to the Assembly vetoing the appointment of a candidate are references to the Assembly making a decision, by the required majority, that the candidate should not be appointed—
- (a) as the London Fire Commissioner, or
 - (b) as the Deputy Mayor for Fire.
- (5) For that purpose, the Assembly makes that decision by the required majority if at least two-thirds of the votes given in making that decision are votes in favour of making that decision.”

15 After Schedule 27 insert—

“SCHEDULE 27A

Section 327A

THE LONDON FIRE COMMISSIONER

Appointment and tenure of office

- 1 (1) The terms and conditions on which the London Fire Commissioner is appointed are to be determined by the Mayor.
- (2) A person holds and vacates office as the London Fire Commissioner in accordance with the terms and conditions of the person’s appointment.
- (3) Sub-paragraph (2) is subject to section 327C (suspension and removal of London Fire Commissioner).

Remuneration

- 2 (1) The person who is the London Fire Commissioner is to be paid such remuneration, allowances and gratuities as may be provided for under the terms and conditions of the Commissioner’s appointment.
- (2) In sub-paragraph (1) “allowances”, in relation to the London Fire Commissioner, means allowances in respect of expenses incurred by the person in the performance of the Commissioner’s functions.
- (3) There is to be paid—
 - (a) a pension to, or in respect of, a person who has been the London Fire Commissioner, or
 - (b) amounts for or towards the provision of a pension to, or in respect of, such a person,
 in accordance with the terms and conditions of the Commissioner’s appointment.
- (4) Payments under this paragraph are to be made by the London Fire Commissioner.
- (5) In determining the London Fire Commissioner’s terms and conditions relating to these matters, the Mayor must have regard to the financial resources of the Commissioner.

Status: This is the original version (as it was originally enacted).

The Deputy London Fire Commissioner

- 3 (1) The London Fire Commissioner may exercise the power in section 112 of the Local Government Act 1972 (appointment of staff) to appoint a Deputy London Fire Commissioner.
- (2) The Deputy London Fire Commissioner may exercise any or all of the powers and duties of the London Fire Commissioner—
- (a) during any absence, incapacity or suspension from duty of the Commissioner,
 - (b) during any vacancy in the office of Commissioner, or
 - (c) at any other time, with the consent of the Commissioner.
- (3) The Deputy London Fire Commissioner may not act under subparagraph (2)(a) or (b) for a continuous period of three months or more without the consent of the Mayor.

Damages and costs in legal proceedings

- 4 (1) The following amounts must be paid by the London Fire Commissioner—
- (a) any damages or costs awarded against the Commissioner in any proceedings brought against the Commissioner in respect of the acts or omissions of an officer employed by the Commissioner;
 - (b) any costs incurred by the Commissioner in any such proceedings so far as not recovered by the Commissioner in the proceedings;
 - (c) any sum required in connection with the settlement of any claim made against the Commissioner in respect of the acts or omissions of an officer employed by the Commissioner, if the settlement is approved by the Mayor.
- (2) The London Fire Commissioner may, in such cases and to such extent as appears to the Commissioner to be appropriate, pay—
- (a) any damages or costs awarded against an officer employed by the Commissioner in proceedings for any unlawful conduct of that officer,
 - (b) any costs incurred and not recovered by such an officer in such proceedings, and
 - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.”

16 Omit Schedule 28 (the London Fire and Emergency Planning Authority).

17 Omit Schedule 29 (amendments relating to the London Fire and Emergency Planning Authority).