
STATUTORY INSTRUMENTS

1995 No. 2634 (S.189)

FIRE SERVICES

**The South Eastern Combined Fire Services
Area Administration Scheme Order 1995**

<i>Made</i>	- - - -	<i>5th October 1995</i>
<i>Laid before Parliament</i>		<i>10th October 1995</i>
<i>Coming into force</i>	- -	<i>31st October 1995</i>

The Secretary of State, in exercise of the powers conferred on him by section 147 of the Local Government (Scotland) Act 1973⁽¹⁾ and of all other powers enabling him in that behalf, after consulting such fire authorities as appear to him to be affected by the administration scheme set out in the Schedule to the following Order, and having informed each authority whether he accepted any objections submitted by the authority and, in the case of any objections which he did not accept, why he did not, hereby makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the South Eastern Combined Fire Services Area Administration Scheme Order 1995.

(2) This Order shall come into force on 31st October 1995.

The South Eastern Combined Fire Services Area Administration Scheme 1995

2. The South Eastern Combined Fire Services Area Administration Scheme 1995, which is set out in the Schedule to this Order, is hereby made.

St Andrew's House,
Edinburgh
5th October 1995

James Douglas-Hamilton
Minister of State, Scottish Office

(1) 1973 c. 65; section 147 was substituted by the Local Government etc. (Scotland) Act 1994 (c. 39), section 36.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Article 2

THE SOUTH EASTERN COMBINED FIRE SERVICES AREA ADMINISTRATION SCHEME 1995

Citation and commencement

1.—(1) This scheme may be cited as the South Eastern Combined Fire Services Area Administration Scheme 1995.

(2) This scheme shall come into operation—

(a) in relation to—

(i) the constitution of the joint board referred to in paragraph 3 below; and

(ii) the performance by that board of any functions necessary to bring this scheme into full operation on 1st April 1996,

on 31st October 1995; and

(b) for all other purposes, on 1st April 1996.

Interpretation

2. In this scheme, the following expressions, except where the context otherwise requires, shall have the meaning hereby respectively assigned to them, that is to say—

“the Act” means the Fire Services Act 1947(2);

“appointed day” means 1st April 1996;

“the board” means the joint board constituted in terms of this scheme;

“the Brigade” means the combined fire brigade, called the Lothian and Borders Fire Brigade which was constituted by the South Eastern Combined Fire Area Administration Scheme Order 1975(3) and continued by section 147(1) of the Local Government (Scotland) Act 1973;

“combined area” means the combined area for fire services comprising the local government areas of East Lothian, Midlothian, West Lothian, Scottish Borders and City of Edinburgh;

“constituent authorities” means East Lothian Council, Midlothian Council, West Lothian Council, Scottish Borders Council and City of Edinburgh Council;

“existing Lothian and Borders Fire Board” means the joint board of that name constituted by the South Eastern Combined Fire Area Administration Scheme Order 1975;

“local government area” shall be construed in accordance with section 1(2) of the Local Government etc. (Scotland) Act 1994.

Constitution of joint board

3.—(1) There is hereby constituted for the administration of the Brigade for the combined area a joint board consisting of 18 members to be appointed from the membership of the constituent authorities as follows:—

(a) 2 shall be appointed by East Lothian Council;

(b) 2 shall be appointed by Midlothian Council;

(c) 3 shall be appointed by West Lothian Council;

(d) 2 shall be appointed by Scottish Borders Council; and

(2) 1947 c. 41.

(3) S.I.1975/487, amended by S.I. 1989/67 and 1993/800.

(e) 9 shall be appointed by City of Edinburgh Council.

(2) The board shall be incorporated with a common seal and shall be known as the Lothian and Borders Fire Board.

Appointment of members of the board and period of office

4.—(1) For the purpose of making the necessary arrangements for the board entering fully upon its duties on the appointed day, the first appointment of the members of the board shall be made by each constituent authority as soon as is practicable after 31st October 1995.

(2) Subject to paragraph 5 below, each of the members first appointed shall hold office from and after the date of appointment by whichever of the constituent authorities appointed him until the first meeting of that constituent authority after the second ordinary election of councillors in 1999.

(3) Subject to sub-paragraph (2) above, the members of the board shall be appointed by each constituent authority at the first meeting of that authority after the second ordinary election of councillors in 1999 and at the first meeting of that authority after each succeeding 3 yearly ordinary election of councillors.

(4) Subject to sub-paragraph (2) above and paragraph 5 below, members of the board shall hold office for the period from the date of their appointment until the first meeting of the constituent authority appointing them after each ordinary election of councillors.

(5) The proceedings of the board shall not be invalidated by any vacancy or vacancies among its members or by any defects in the method of appointment of any of its members.

(6) Any member of the Board may be represented at any meeting of the board by a substitute member appointed in accordance with sub-paragraph (7) below.

(7) A constituent authority may, subject to sub-paragraph (9) below, appoint one of its members to be a substitute member for any member of the board who is also a member of that authority.

(8) A substitute member shall have the same powers at a meeting of the board as the member whom he is representing would have had at that meeting.

(9) A person may not be appointed as a substitute member of the board if he is a member of the board.

Cessation of membership of the board

5.—(1) On any member of the board ceasing to be a member of the constituent authority which appointed him he shall cease to be a member of the board.

(2) A member of the board may resign his membership at any time. Such resignation shall—

(a) be in writing;

(b) be intimated to the head of the paid service of the constituent authority by which he was appointed and to the clerk to the board; and

(c) take effect on the date on which the clerk to the board receives such intimation or on such later date as may be specified in that intimation.

(3) A member of the board who resigns his membership shall cease to be a member of the board on the date on which his resignation takes effect.

(4) A member of the board shall cease to be a member of the board if and when the constituent authority by which he was appointed so decides.

(5) If any person ceases to be a member of the board, the constituent authority which appointed him shall as soon as possible appoint a member in his place unless in the opinion of the constituent authority the appointment should be deferred until the next appointment of members of the board.

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Convener and vice-convener

6.—(1) The board shall appoint from its membership a convener and one or more vice-conveners, but it shall not be competent for—

- (a) the convener to be a member of a constituent authority of which any vice-convener is a member; or
- (b) a vice-convener to be a member of the constituent authority of which any other vice-convener is a member.

(2) The convener and any vice-convener shall each hold office from the date of his appointment until the next 3 yearly appointment of members of the board, except where—

- (a) his appointment is terminated by the board; or
- (b) he ceases to be a member of the board.

(3) Subject to sub-paragraph (4) below, the convener, or in his absence, a vice-convener, shall preside at all meetings of the board.

(4) If all of the persons appointed under sub-paragraph (1) above are absent from any meeting of the board the members present shall appoint a substitute convener to preside at that meeting.

Officers of the board

7.—(1) The board shall appoint a clerk and a treasurer.

(2) The clerk and the treasurer shall hold and vacate office as such in accordance with the terms of the instrument by which they are respectively appointed and, notwithstanding the terms of the instrument of appointment, the board may terminate their appointment at any time.

(3) For the period from 31st October 1995 until a clerk and treasurer have been appointed, the persons who are the clerk and the treasurer to the existing Lothian and Borders Fire Board for the time being shall respectively be the clerk and the treasurer to the board.

(4) The board may appoint such other staff as may be required for the discharge of the functions of the board under this scheme.

(5) Where under an agreement with the board, any constituent authority places its own staff at the disposal of the board, the board shall make annually such payments as may from time to time be agreed with that authority for the service of that staff.

Meetings

8.—(1) The first meeting of the board shall be held no later than 28th November 1995.

(2) The board shall hold such meetings as it shall consider necessary for the disposal of its business at such place or places as it may from time to time fix.

(3) The clerk shall send copies of the minutes of meetings of the board to the constituent authorities for their information.

(4) The board shall have power to make or adopt standing orders regulating its procedures and business.

(5) The quorum of the board shall be 6 members provided that the members present shall not all be members appointed by the same constituent authority.

(6) All questions coming or arising before a board shall be decided by a majority of the members of the board present and voting thereon at a meeting of the board.

(7) In the case of an equality of votes the person presiding at the meeting of the board shall have a second or casting vote except where the matter which is the subject of the vote relates to the

appointment of a member of the board to any particular office or sub-committee, in which case the decision shall be by lot.

Sub-committees

9.—(1) The board may appoint from its membership such sub-committees as it may from time to time consider necessary or desirable and may refer to such sub-committees such matters as the board may from time to time specify by minute or in its standing orders.

(2) Any member of a sub-committee of the board may be represented at any meeting of that sub-committee by a substitute member appointed in accordance with sub-paragraph (3) below.

(3) A constituent authority may, subject to sub-paragraph (5) below, appoint one of its members to be a substitute member for any member of a sub-committee who is also a member of that authority.

(4) A substitute member shall have the same powers at a meeting of a sub-committee as the member whom he is representing would have had at that meeting.

(5) A person may not be appointed as a substitute member of a sub-committee if he is a member of that sub-committee.

Powers and duties of the board

10.—(1) The whole functions of the constituent authorities as fire authorities are hereby delegated to the board on and after the appointed day except—

- (a) the power to levy a rate, or council tax; and
- (b) their functions under section 36(3A) of the Act⁽⁴⁾.

(2) The board shall have power to hold land and to borrow money.

Financial arrangements

11.—(1) The board shall constitute a fund from which it shall make payment of the expenses incurred by it in the administration of the Brigade.

(2) Each constituent authority shall make payment into the aforesaid fund of the relevant proportion due by the authority in respect of the expenditure incurred by the board in each financial year upon and incidental to the administration and maintenance of the Brigade, after deducting therefrom all receipts which require to be applied towards meeting such expenditure of the board under and for the purposes of the Act, in accordance with requisitions made by the board in terms of section 216 of the Local Government (Scotland) Act 1947⁽⁵⁾.

(3) The relevant proportion of the expenditure referred to in sub-paragraph (2) above to be borne by each constituent authority shall be according to—

- (a) the cost of the provision of services by the Brigade within the area of each constituent authority; or
- (b) such other appropriate method as the constituent authorities agree.

(4) For the purposes of the Local Government Superannuation (Scotland) Regulations 1987⁽⁶⁾, the appropriate superannuation fund in relation to the pensionable employees (as defined in said Regulations) of the board shall be—

- (a) at any time before 1st April 1996, the superannuation fund of Lothian Regional Council; and

⁽⁴⁾ Section 36(3A) was inserted by the Local Government etc. (Scotland) Act 1994, Schedule 13, paragraph 27(3)(c).

⁽⁵⁾ 1947 c. 43; section 216 was amended by the Local Government (Scotland) Act 1973 (c. 65), Schedule 9, paragraph 2.

⁽⁶⁾ S.I. 1987/1850 to which there are amendments not relevant for the purposes of this scheme.

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(b) on or after 1st April 1996, the superannuation fund of the City of Edinburgh Council.

(5) The board shall provide each of the constituent authorities with a copy of the audited accounts of the board for each financial year.

Settlement of differences

12. Should any differences arise between the constituent authorities concerning the calculation of the cost of the provision of services by the Brigade within the area of each constituent authority, such differences shall be referred to the determination of the Secretary of State whose decision shall be final and binding upon the constituent authorities.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes an administration scheme in relation to the combined fire services area (known as South Eastern) comprising the new local government areas of East Lothian, Midlothian, West Lothian, the Scottish Borders and City of Edinburgh. The fire brigade established and maintained for the existing Lothian Region and Borders Region continues in existence on and after 1st April 1996 by virtue of section 147(1) of the Local Government (Scotland) Act 1973 (as substituted by section 36 of the Local Government etc. (Scotland) Act 1994). In terms of section 147(4) of the Act of 1973 that brigade shall be the fire brigade for the new combined area.

The scheme comes into effect on 1st April 1996 except in relation to those matters referred to in paragraph 1(2)(a) of the scheme in respect of which it comes into operation on 31st October 1995.

The scheme provides for the constitution of a new joint board to which the whole functions relating to fire (except those mentioned in paragraph 10(1) of the scheme) of the relevant authorities (that is East Lothian Council, Midlothian Council, West Lothian Council, the Scottish Borders Council and City of Edinburgh Council) are delegated. The scheme makes provision with respect to the members and officers of the board and its procedure, powers and duties.