



# Fire (Scotland) Act 2005

## 2005 asp 5

### PART 2

#### FIRE AND RESCUE SERVICES

### CHAPTER 8

#### CENTRAL SUPERVISION AND SUPPORT

#### *[<sup>F1</sup>Best value*

#### Textual Amendments

**F1** Ss. 39A-39C and cross-heading inserted (8.8.2012) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), [ss. 113](#), 129(1)(b)

#### **39A Best value**

- (1) It is the duty of SFRS to make arrangements which secure best value.
- (2) Best value is continuous improvement in the carrying out of SFRS's functions.
- (3) In securing best value, SFRS must maintain an appropriate balance among—
  - (a) the quality of its carrying out of its functions,
  - (b) the cost to SFRS of that carrying out of its functions,
  - (c) the cost to persons of any service provided by SFRS for them on a wholly or partly rechargeable basis.
- (4) In maintaining that balance, SFRS must have regard to—
  - (a) efficiency,
  - (b) effectiveness,
  - (c) economy, and
  - (d) the need to meet the equal opportunity requirements.

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- (5) SFRS must carry out its duties under this section in a way which contributes to the achievement of sustainable development.
- (6) In measuring the improvement of the carrying out of SFRS's functions for the purposes of this section, regard is to be had to the extent to which the outcomes of the carrying out of the functions have improved.
- (7) In this section, “equal opportunity requirements” has the same meaning as in Section L2 of Part 2 of Schedule 5 to the Scotland Act 1998 (c.46).

### **39B      Best value: further provision**

- (1) In carrying out its duties under section 39A, SFRS must have regard to the matters mentioned in subsection (2).
- (2) The matters are—
  - (a) any relevant guidance issued by the Scottish Ministers,
  - (b) what are, whether by reference to any generally recognised published code or otherwise, regarded as proper arrangements for the purposes of section 39A(1) (or purposes which include those purposes).
- (3) Before issuing relevant guidance, the Scottish Ministers must consult—
  - (a) SFRS, and
  - (b) such other persons as they think appropriate.
- (4) In the event of a conflict in any respect between the matter to which SFRS is to have regard under paragraph (a) of subsection (2) and the matter to which it is to have regard under paragraph (b) of that subsection, SFRS must in that respect have regard only to matters within paragraph (a).
- (5) In this section “relevant guidance”—
  - (a) means guidance on the carrying out of the duties imposed by section 39A,
  - (b) includes in particular guidance on
    - (i) how to make and what is to be included in the arrangements mentioned in section 39A(1),
    - (ii) how to implement the duty imposed by that section.

### **39C      Examinations of SFRS by Auditor General**

The reference in section 23 of the Public Finance and Accountability (Scotland) Act 2000 (asp 1) to examinations into the economy, efficiency and effectiveness with which resources have been used is, in relation to SFRS, to include a reference to examinations into the arrangements made by SFRS under section 39A.]

## *Fire and Rescue Framework for Scotland*

### **40      Framework document**

- (1) The Scottish Ministers shall prepare a document—
  - (a) setting out priorities and objectives for relevant authorities in connection with the carrying out of their functions; and

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- (b) containing—
  - (i) such guidance in connection with the carrying out of any of those functions; and
  - (ii) such other matters relating to those authorities or those functions, as the Scottish Ministers consider appropriate.
- (2) The Scottish Ministers—
  - (a) shall keep the document prepared under subsection (1) under review; and
  - (b) may from time to time revise it.
- (3) The Scottish Ministers shall carry out the functions conferred on them by subsection (1) and (2) in the manner and to the extent that appears to them to be best calculated to promote—
  - (a) public safety;
  - (b) the efficiency and effectiveness of fire and rescue authorities; and
  - (c) efficiency and effectiveness in connection with the matters in relation to which relevant authorities have functions.
- (4) The document prepared under subsection (1), and any revision of it which appears to the Scottish Ministers to be significant, shall have effect only when brought into effect by the Scottish Ministers by order.
- (5) In preparing—
  - (a) the document mentioned in subsection (1); and
  - (b) any revision of it which appears to them to be significant,the Scottish Ministers shall consult the persons mentioned in subsection (6).
- (6) Those persons are—
  - (a) each relevant authority or such persons as the Scottish Ministers consider represent those authorities; and
  - (b) such persons as the Scottish Ministers consider represent employees of those authorities.

#### Commencement Information

- II** S. 40 wholly in force at 2.8.2005; s. 40 not in force at Royal Assent see s. 90; s. 40 in force for certain purposes at 6.4.2005 by [S.S.I. 2005/207](#), [art. 3](#); s. 40 in force at 2.8.2005 in so far as not already in force by [S.S.I. 2005/392](#), [art. 2\(f\)](#)

## 41 Adherence

- (1) In carrying out their functions, relevant authorities shall have regard to the document prepared under section 40(1).
- (2) Subsections (3) and (4) apply where the Scottish Ministers consider that a relevant authority is failing, or is likely to fail, to act in accordance with the document prepared under section 40(1).
- (3) The Scottish Ministers may cause an inquiry to be held into the matter.
- (4) Subject to subsection (5), the Scottish Ministers may, for the purpose of securing that the authority acts in accordance with the document, by order require the authority—

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- (a) to take; or
  - (b) to refrain from taking,
- such action as is specified in the order.
- (5) The Scottish Ministers may make an order under subsection (4) only where they consider that it would promote—
- (a) public safety;
  - (b) the efficiency and effectiveness of the authority; or
  - (c) efficiency and effectiveness in connection with the matters in relation to which relevant authorities have functions.
- (6) Before making an order under subsection (4), the Scottish Ministers shall consult the authority in respect of which it is proposed to be made.
- (7) Where the document prepared under subsection (1) of section 40 has been revised under subsection (2)(b) of that section, the references in this section and section 42 to that document shall be taken to refer to that document as revised.

#### **[<sup>F2</sup>41M Provision of information**

- (1) SFRS must provide the Scottish Ministers with such reports, statistics and other information relating to SFRS or its functions as the Scottish Ministers may require.
- (2) Information provided under this section may in particular relate to the outcomes of fires, events and other situations in relation to which SFRS makes provision or takes action.
- (3) Information to be provided under this section must be provided at the times, and in the form, specified by the Scottish Ministers.]

#### **Textual Amendments**

**F2** S. 41M inserted (8.8.2012) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 117, 129(1)(b)**

## **42 Reporting**

- (1) The Scottish Ministers shall report to the Scottish Parliament on—
  - (a) the extent to which relevant authorities are acting in accordance with the document prepared under section 40(1); and
  - (b) any steps taken by them for the purpose of securing that relevant authorities so act.
- (2) The first report under subsection (1) shall be made before the expiry of the period of two years starting on the date when the document prepared under section 40(1) is brought into effect.
- (3) Every subsequent such report shall be made before the expiry of the period of two years starting on the date on which the last such report was made.

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## *Inspection*

### **43 Inspectors of Fire and Rescue Authorities**

- (1) Her Majesty may by Order in Council appoint—
  - (a) a Chief Inspector of Fire and Rescue Authorities; and
  - (b) such number of Inspectors of Fire and Rescue Authorities as the Scottish Ministers may determine.
- (2) The Scottish Ministers may appoint Assistant Inspectors of Fire and Rescue Authorities.
- (3) The Scottish Ministers shall pay to the persons appointed under this section such remuneration as the Scottish Ministers may determine.
- (4) A person who, immediately before the coming into force of this section, is by virtue of appointment under section 24 of the Fire Services Act 1947 (c. 41)—
  - (a) the Chief Inspector of Fire Services for Scotland, shall be taken to have been appointed under subsection (1)(a);
  - (b) an Inspector of Fire Services for Scotland, shall be taken to have been appointed under subsection (1)(b);
  - (c) an Assistant Inspector of Fire Services for Scotland, shall be taken to have been appointed under subsection (2).

### **44 Functions of Inspectors of Fire and Rescue Authorities**

- (1) The Scottish Ministers may direct a person appointed under section 43 to—
  - (a) inquire into a matter mentioned in subsection (2); and
  - (b) to submit to them a written report on that matter by a date specified by them.
- (2) Those matters are—
  - (a) the state and efficiency of relevant authorities generally;
  - (b) the manner in which—
    - (i) a relevant authority is carrying out any of its functions under this Act; or
    - (ii) relevant authorities are carrying out such functions generally;
  - (c) technical matters relating to a function of a relevant authority under this Act.
- (3) The Scottish Ministers shall lay a copy of each report submitted to them under subsection (1)(b) on the matter mentioned in subsection (2)(a) before the Scottish Parliament.

## *Equipment, facilities and services*

### **45 Directions for public safety purposes**

- (1) Where the Scottish Ministers consider it necessary to do so for public safety purposes, they may make an order (a “property and facilities order”) giving general or specific directions to a relevant authority (or two or more such authorities) about the use or disposal of property or facilities.

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- (2) A direction under subsection (1) given to an authority may in particular include provision—
- (a) about the use or disposal by the authority of property or facilities belonging to it or under its control;
  - (b) about the use by the authority of property or facilities belonging to or under the control of—
    - (i) another relevant authority; or
    - (ii) a person who has made, or is willing to make, the property or facilities available;
  - (c) requiring payments to be made by the authority to—
    - (i) another relevant authority; or
    - (ii) any other person,
 in respect of the use of property or facilities.
- (3) In subsection (2)(b) a reference to property or facilities belonging to a person includes a reference to land occupied by the person.

#### **46 Requirements concerning equipment and services**

The Scottish Ministers may make an order requiring a relevant authority (or two or more such authorities)—

- (a) to use and maintain equipment—
  - (i) specified in the order; or
  - (ii) of a description so specified; or
- (b) to use services—
  - (i) so specified; or
  - (ii) of a description so specified.

#### **47 Provision of equipment etc.**

- (1) The Scottish Ministers may—
- (a) provide and maintain any equipment, facilities and services;
  - (b) contribute to the provision and maintenance of any equipment, facilities and services;
  - (c) establish and maintain any organisations; or
  - (d) contribute to the establishment and maintenance of any organisations,
- they consider appropriate for promoting the economy, efficiency and effectiveness of relevant authorities.
- (2) Subject to subsection (3), charges may be imposed for the use of equipment, facilities and services—
- (a) provided by the Scottish Ministers under subsection (1)(a); or
  - (b) provided by an organisation established or maintained by the Scottish Ministers under subsection (1)(c).
- (3) Any such charge shall not exceed the costs reasonably incurred in providing the equipment, facility or service to which it relates.

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## *Training*

### **48 Central institution and other centres for education and training**

- (1) The Scottish Ministers may establish and maintain a central training institution for one or more of the purposes mentioned in subsection (2).
- (2) Those purposes are—
  - (a) the provision of education and training to employees of relevant authorities;
  - (b) the provision of advice and assistance to relevant authorities in connection with the provision of such education and training;
  - (c) the supervision and regulation of the provision of such education and training;
  - (d) the provision of education and training to persons who provide (or are to provide) such education and training;
  - (e) the provision of education or training to persons who are not employees of relevant authorities in matters in relation to which relevant authorities have functions;
  - (f) the provision of advice and assistance in connection with the provision of such education and training.
- (3) The Scottish Ministers may make arrangements with a relevant authority for a centre established under section 15 to be used for one or more of the purposes mentioned in subsection (2).

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