



Police and Fire Reform (Scotland) Act 2012

2012 asp 8

PART 2

FIRE REFORM

The Scottish Fire and Rescue Service

101 The Scottish Fire and Rescue Service

(1) After section 1 of the 2005 Act, insert—

“1A The Scottish Fire and Rescue Service

- (1) There is established a body corporate to be known as the Scottish Fire and Rescue Serviceor, in Gaelic, Seirbheis Smàlaidh agus Teasairginn na h-Alba (referred to in this Act as “SFRS”).
- (2) SFRS has the functions conferred on it by or under this Act or any other enactment.
- (3) Schedule 1A makes further provision about SFRS.”.

(2) After schedule 1 to the 2005 Act, insert—

“SCHEDULE 1A

(introduced by section 1A(3))

THE SCOTTISH FIRE AND RESCUE SERVICE

Status

- 1 (1) SFRS—
 - (a) is not a servant or agent of the Crown, and

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- (b) has no status, immunity or privilege of the Crown.
- (2) SFRS's property is not property of, or property held on behalf of, the Crown.

Membership

- 2 (1) SFRS is to consist of—
- (a) a member appointed by the Scottish Ministers to chair SFRS (“the chairing member”), and
 - (b) not fewer than 10 nor more than 14 other members appointed by the Scottish Ministers.
- (2) The Scottish Ministers may appoint as members only persons who they consider to have skills and expertise relevant to the functions of SFRS.
- (3) The Scottish Ministers may by order modify sub-paragraph (1)(b) by substituting for the minimum or maximum number of members for the time being specified such other number as they think fit.
- (4) Members of SFRS may elect from their number a member to act as deputy to the chairing member.

Disqualification

- 3 (1) A person is disqualified from appointment, and from holding office, as a member of SFRS if that person is or becomes—
- (a) a member of staff of SFRS,
 - (b) a member of
 - (i) the Scottish Parliament,
 - (ii) the House of Lords,
 - (iii) the House of Commons, or
 - (iv) the European Parliament,
 - (c) disqualified from standing for election as a member of
 - (i) the Scottish Parliament,
 - (ii) the House of Commons, or
 - (iii) a local authority.
- (2) The Scottish Ministers may by order modify sub-paragraph (1).

Tenure

- 4 (1) A member is to be appointed for a period not exceeding 4 years specified in the appointment.
- (2) A member holds and vacates office on such terms and conditions as the Scottish Ministers may determine.
- (3) On ceasing to be a member, a person is eligible for reappointment.
- (4) A member may, by notice in writing to the Scottish Ministers, resign office as a member.

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Removal from office

- 5 (1) The Scottish Ministers may remove a member from office if—
- (a) the member is an undischarged bankrupt,
 - (b) the member has, without reasonable excuse, been absent from meetings of SFRS for a period longer than 4 consecutive months,
 - (c) the member has, without reasonable excuse, been absent from 3 consecutive meetings of SFRS,
 - (d) the member has been convicted (whether before or after the member's appointment) of a criminal offence,
 - (e) the member has failed to comply with the terms or conditions of the member's appointment,
 - (f) the Scottish Ministers consider that the member is otherwise unfit to be a member or is unable for any reason to carry out the member's functions.
- (2) For the purposes of sub-paragraph (1)(a), “undischarged bankrupt” means a person—
- (a) whose estate has been sequestrated and who has not been discharged (or against whom a bankruptcy order has been made and is still in force),
 - (b) who has granted a trust deed for, or made a composition or arrangement with, creditors (and has not been discharged in respect of it),
 - (c) who is the subject of a bankruptcy restrictions order, or an interim bankruptcy restrictions order, made under the Bankruptcy (Scotland) Act 1985 (c.66) or the Insolvency Act 1986 (c.45),
 - (d) who is the subject of a bankruptcy restrictions undertaking entered into under either of those Acts,
 - (e) who has been adjudged bankrupt (and has not been discharged), or
 - (f) who is subject to any other kind of order, arrangement or undertaking analogous to those mentioned in paragraphs (a) to (d), anywhere in the world.

Remuneration, allowances and expenses of members

- 6 SFRS may pay to its members such remuneration, allowances and expenses as the Scottish Ministers may determine.

The Chief Officer

- 7 (1) SFRS must employ a Chief Officer.
- (2) The Chief Officer may not be a member of SFRS.
 - (3) The first Chief Officer is to be appointed by the Scottish Ministers on such terms and conditions as they may determine.
 - (4) Each subsequent appointment of a person as the Chief Officer is to be made by SFRS.

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- (5) The appointment of a person under sub-paragraph (4) is subject to the approval of the Scottish Ministers.
- (6) The terms and conditions of a person appointed under sub-paragraph (4) are to be determined by SFRS.

SFRS's employees

- 8 (1) SFRS may employ staff.
- (2) Staff are to be employed on terms and conditions determined by SFRS.
- (3) SFRS may pay or make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who is, or has ceased to be, a member of staff (including the Chief Officer).
- (4) The reference in sub-paragraph (3) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of employment.
- (5) The arrangements mentioned in sub-paragraph (3) may include—
 - (a) the making of contributions or payments towards provision for pensions, allowances or gratuities mentioned there, and
 - (b) the establishment and administration of pension schemes.

Committees and sub-committees

- 9 (1) SFRS may establish committees for any purpose.
- (2) Any committee so established may establish sub-committees.
- (3) The members of any committee or sub-committee may include persons who are not members of SFRS but such persons are not entitled to vote at meetings.
- (4) A committee or sub-committee must not consist entirely of persons who are not members of SFRS.
- (5) SFRS may pay such remuneration, allowances and expenses as are determined by SFRS to a member of a committee or sub-committee who is not—
 - (a) a member of SFRS, or
 - (b) a member of staff of SFRS.

Procedure

- 10 (1) SFRS may regulate—
 - (a) its own procedure (including quorum), and
 - (b) the procedure (including quorum) of its committees and sub-committees.
- (2) The validity of any proceedings or acts of SFRS is not affected by any—
 - (a) vacancy in its membership,
 - (b) defect in the appointment of a member,
 - (c) disqualification of a person as a member after appointment.

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Public access

- 11 (1) SFRS must ensure that its proceedings and those of its committees and sub-committees are held in public.
- (2) Despite sub-paragraph (1), SFRS or, as the case may be, any of its committees or sub-committees may decide to hold all or part of any proceedings in private.
- (3) SFRS must publish—
- (a) agendas for its proceedings and those of its committees and sub-committees,
 - (b) the papers relating to those proceedings,
 - (c) such reports of those proceedings as it thinks fit.
- (4) Despite sub-paragraph (3), SFRS may decide that all or part of any agenda, paper or report need not be published.
- (5) SFRS must publish a statement setting out—
- (a) the circumstances in which its proceedings and those of its committees and sub-committees may be held in private, and
 - (b) the circumstances in which agendas, papers and reports need not be published.

Governance and accountability

- 12 SFRS must try to ensure that each of its members, when acting in the capacity of member—
- (a) acts consistently with any principle of good governance which appears to SFRS to constitute best practice, and
 - (b) acts in a way which is as accountable and transparent as is reasonably practicable.

SFRS's general powers

- 13 (1) SFRS may do anything that it considers appropriate for the purposes of, or in connection with, the carrying out of its functions.
- (2) SFRS may in particular—
- (a) enter into contracts,
 - (b) borrow money,
 - (c) acquire and dispose of land and other property,
 - (d) with the authorisation of the Scottish Ministers, purchase compulsorily land,
 - (e) form or promote (whether alone or with another) companies under the Companies Act 2006 (c.46).
- (3) SFRS may not exercise the power in sub-paragraph (2)(b) or (e) without the consent of the Scottish Ministers.
- (4) For the purposes of sub-paragraph (3) consent may be given—
- (a) with respect to a particular case or class of case,

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- (b) subject to such conditions as the Scottish Ministers consider appropriate.
- (5) The power in sub-paragraph (2)(c) includes the power to accept, on such conditions as SFRS considers appropriate—
 - (a) gifts of money, and
 - (b) gifts or loans of other property.
- (6) The powers in sub-paragraph (2)(c) and (d) to acquire and purchase land include power to acquire a servitude or other right in or over land by the creation of a new right.
- (7) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c.42) applies in relation to the compulsory purchase of land under sub-paragraph (2)(d) as if—
 - (a) that sub-paragraph were contained in an Act in force immediately before the commencement of that Act, and
 - (b) SFRS were a local authority.

Delegation of functions

- 14 (1) SFRS may delegate any of its functions to a person mentioned in sub-paragraph (2).
- (2) Those persons are—
 - (a) the Chief Officer,
 - (b) any other member of staff of SFRS,
 - (c) any of its committees.
- (3) Sub-paragraph (1) does not affect—
 - (a) SFRS's responsibility for the carrying out of the delegated functions, or
 - (b) SFRS's ability to carry out the delegated functions.

Location of principal office premises

- 15 Any determination by SFRS as to the location of the principal office premises of its members or its Chief Officer is subject to the approval of the Scottish Ministers.

Grants

- 16 (1) The Scottish Ministers may make grants to SFRS of such amounts as they may determine.
- (2) A grant is made subject to any conditions specified by the Scottish Ministers (including conditions about repayment).

Accounts

- 17 (1) SFRS must—
 - (a) keep proper accounts and accounting records, and
 - (b) prepare for each financial year a statement of accounts.

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- (2) Each statement of accounts must comply with any directions given by the Scottish Ministers as to—
 - (a) the information to be contained in it,
 - (b) the manner in which the information is to be presented,
 - (c) the methods and principles according to which the statement is to be prepared.
- (3) SFRS must send each statement of accounts to the Auditor General for Scotland for auditing.
- (4) In this paragraph, “financial year” means—
 - (a) the period beginning on the day on which SFRS is established and ending on 31 March next occurring, and
 - (b) each subsequent period of a year ending on 31 March.”.

Commencement Information

- II** S. 101 partly in force; s. 101(1) in force for specified purposes and s. 101(2) wholly in force at 8.8.2012 see s. 129(1)(b)

VALID FROM 01/04/2013

Functions

102 Promotion of fire safety

In section 8 of the 2005 Act (fire safety)—

- (a) in subsection (1), for “Each relevant authority shall” substitute “ SFRS must ”, and
- (b) in subsection (2)
 - (i) for “a relevant authority shall” substitute “ SFRS must ”, and
 - (ii) for “the authority” substitute “ it ”.

103 Fire safety: enforcement

(1) In section 61 of the 2005 Act (enforcing authorities)—

- (a) in each of subsections (7) and (8)
 - (i) for “A relevant authority” substitute “ SFRS ”, and
 - (ii) for “the authority” substitute “ SFRS ”, and
- (b) in subsection (9), for paragraphs (b) and (c) substitute—

“(b) in relation to any other relevant premises, SFRS.”.

(2) In section 67 of the 2005 Act (enforcement of Chapter 1 of Part 3 of the 2005 Act: determination of disputes)—

- (a) for subsection (1), substitute—

“(1) Subsections (1A) and (1B) apply where—

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- (a) an enforcing authority considers that a person has failed to comply with any of the Chapter 1 duties, and
- (b) in relation to the duty in question, the person and the authority cannot agree on the action that requires to be taken to comply with the duty.

(1A) The person and the authority may refer the matter to the person appointed under section 43A(1)(a) for determination.

(1B) If the enforcing authority is SFRS, it or the person may refer the matter to the person appointed under section 43A(1)(a) for determination.”, and

- (b) in subsection (4), for “(1) or (2)” substitute “ (1A) or (1B) ”.

104 Fire-fighting

In section 9 of the 2005 Act (fire-fighting)—

- (a) in subsection (1), for “Each relevant authority shall” substitute “ SFRS must ”, and
- (b) in subsection (2), for “a relevant authority shall” substitute “ SFRS must ”.

105 Road traffic accidents

In section 10 of the 2005 Act (road traffic accidents)—

- (a) in subsection (1), for “Each relevant authority shall” substitute “ SFRS must ”, and
- (b) in subsection (2), for “a relevant authority shall” substitute “ SFRS must ”.

106 Conferral of functions in relation to other emergencies

In section 11 of the 2005 Act (conferral of functions in relation to other emergencies)—

- (a) in subsection (1), for “a relevant authority (the “specified authority”)” substitute “ SFRS ”, and
- (b) in each of subsections (2) and (3), for “the specified authority”, in each place where it occurs, substitute “ SFRS ”.

107 Power to respond to other eventualities

In section 13 of the 2005 Act (power to respond to other eventualities)—

- (a) in subsection (1), for “A relevant authority” substitute “ SFRS ”, and
- (b) in subsection (2)(b), for “an authority” substitute “ SFRS ”.

108 Provision of other services

In section 14 of the 2005 Act (provision of other services)—

- (a) in subsection (1)
 - (i) for “A relevant authority” substitute “ SFRS ”, and
 - (ii) for “the authority” substitute “ SFRS ”, and
- (b) in subsection (2), for “An authority” substitute “ SFRS ”.

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109 Provision of centres for education and training

In section 15 of the 2005 Act (provision of centres for education and training)—

- (a) for “A relevant authority” substitute “ SFRS ”, and
- (b) for “relevant authorities have” substitute “ it has ”.

110 Charging

In section 16 of the 2005 Act (charging)—

- (a) in subsection (1)
 - (i) for “a relevant authority” substitute “ SFRS ”, and
 - (ii) for “the authority” substitute “ SFRS ”,
- (b) in subsection (2), for “the authority” substitute “ SFRS ”,
- (c) in subsection (3), for the words from “the”, where it secondly occurs, to the end substitute “ SFRS at sea beyond the low water mark ”, and
- (d) in subsection (4)
 - (i) for “a relevant authority” substitute “ SFRS is ”,
 - (ii) after “description” insert “ and it ”, and
 - (iii) for “the authority”, in both places where it occurs, substitute “ SFRS ”.

Further amendments of 2005 Act

VALID FROM 01/04/2013

111 Assistance

In section 35 of the 2005 Act (the title of which becomes “ Assistance ”)—

- (a) for subsections (1) and (2), substitute—
 - “(1) SFRS may enter into arrangements with a person for securing the provision by that person of assistance for SFRS in the carrying out by SFRS of a relevant function.
 - (2) A person may provide assistance under arrangements made under subsection (1) only if the Chief Officer is satisfied that the person has sufficient knowledge, skills and experience to enable the person to provide assistance for SFRS in the carrying out by SFRS of the relevant function.”, and
- (b) after subsection (3), add—
 - “(4) In this section, “relevant function” means a function conferred by or under any of sections 8 to 11, 13 and 61.”.

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VALID FROM 01/04/2013

112 Delegation

In section 36 of the 2005 Act (power to make arrangements for delegating functions)—

(a) for subsections (1) and (2), substitute—

“(1) SFRS may enter into arrangements with a person for the carrying out by that person of a relevant function.

(2) A person may carry out a relevant function under arrangements made under subsection (1) only if the Chief Officer is satisfied that the person has sufficient knowledge, skills and experience to enable the person to carry out the relevant function.

(2A) SFRS may enter into arrangements under this section in relation to its function of extinguishing fires only if the person employs fire-fighters.”, and

(b) after subsection (3), add—

“(4) In this section, “relevant function” means a function conferred by or under any of sections 8 to 11, 13 and 61.”.

113 Best value

Before section 40 of the 2005 Act (and the italic cross-heading immediately preceding it), insert—

“Best value

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.
- (5) SFRS must carry out its duties under this section in a way which contributes to the achievement of sustainable development.

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- (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.”.

114 Strategic plan

After section 41 of the 2005 Act, insert—

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“CHAPTER 8A

PLANNING, REPORTS AND INFORMATION

Strategic plan

41A SFRS's first strategic plan

- (1) SFRS must prepare a strategic plan.
- (2) A strategic plan is a plan—
 - (a) setting out how SFRS proposes to carry out its functions during the period of 3 years beginning with the day appointed by order under subsection (7),
 - (b) setting out outcomes by reference to which the carrying out of its functions may be measured, and
 - (c) including such other material relating to its functions or to a period other than the period mentioned in paragraph (a) as SFRS thinks fit.
- (3) Before preparing the strategic plan, SFRS must make arrangements for obtaining views on what the plan should contain from persons whom it considers likely to have an interest in how SFRS carries out its functions.
- (4) When preparing the strategic plan, SFRS must—
 - (a) have regard to the framework document,
 - (b) send a copy of a draft plan to the persons mentioned in subsection (5),
 - (c) invite the recipients to comment on the draft plan within such reasonable period as SFRS may specify, and
 - (d) have regard to any comments received within that period.
- (5) Those persons are—
 - (a) each local authority,
 - (b) such persons as SFRS considers represent local authorities,
 - (c) such persons as SFRS considers represent employees of SFRS,
 - (d) such other persons as SFRS considers appropriate.
- (6) SFRS must submit the strategic plan prepared under subsection (1) to the Scottish Ministers for approval.
- (7) SFRS must use its best endeavours to secure the approval of the Scottish Ministers to the strategic plan (with or without modifications) before such day as the Scottish Ministers may by order appoint.
- (8) If the Scottish Ministers approve the strategic plan, SFRS must—
 - (a) publish the plan, and
 - (b) lay before the Scottish Parliament a copy of the plan.

41B Review of plan

- (1) This section applies where—

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- (a) a strategic plan is approved under section 41A, or
 - (b) a new strategic plan is approved under subsection (4) or (6).
- (2) SFRS may at any time review the plan.
- (3) SFRS must review the plan—
 - (a) if the Scottish Ministers make an order under section 40(4), and
 - (b) before the end of the period of 3 years to which the plan relates.
- (4) Following a review under subsection (2) or (3)(a), SFRS may prepare and submit to the Scottish Ministers for approval a new strategic plan.
- (5) If, following a review under subsection (3)(a), SFRS decides not to prepare a new strategic plan, it must notify the Scottish Ministers of that fact.
- (6) Following a review under subsection (3)(b), SFRS must, before the end of the period of 3 years mentioned in that subsection, prepare and submit to the Scottish Ministers for approval a new strategic plan.
- (7) A new strategic plan is a plan—
 - (a) setting out how SFRS proposes to carry out its functions during the period of 3 years beginning with the plan commencement day,
 - (b) setting out outcomes by reference to which the carrying out of its functions may be measured, and
 - (c) including such other material relating to its functions or to a period other than the period mentioned in paragraph (a) as SFRS thinks fit.
- (8) Before preparing a new strategic plan, SFRS must make arrangements for obtaining views on what the plan should contain from persons whom it considers likely to have an interest in how SFRS carries out its functions.
- (9) When preparing a new strategic plan, SFRS must—
 - (a) have regard to the framework document,
 - (b) send a copy of a draft plan to the persons mentioned in section 41A(5),
 - (c) invite the recipients to comment on the draft plan within such reasonable period as SFRS may specify, and
 - (d) have regard to any comments received within that period.
- (10) SFRS must use its best endeavours to secure the approval of the Scottish Ministers to a new strategic plan (with or without modifications) before the plan commencement day for that plan.
- (11) If the Scottish Ministers approve a new strategic plan, SFRS must—
 - (a) publish the plan, and
 - (b) lay before the Scottish Parliament a copy of the plan.
- (12) In this section, “plan commencement day” means—
 - (a) in the case of a strategic plan prepared under subsection (4), the day 8 weeks after the day on which SFRS submits a new strategic plan to the Scottish Ministers (or such earlier day as SFRS and the Scottish Ministers may agree),
 - (b) in the case of a strategic plan prepared under subsection (6), the day after the end of the period of 3 years to which the previous strategic plan relates.

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41C SFRS's duty to have regard to approved plan

- (1) This section applies where a strategic plan or a new strategic plan has been approved by the Scottish Ministers under section 41A or, as the case may be, section 41B.
- (2) In carrying out its functions, SFRS must have regard to the strategic plan in so far as that plan is not inconsistent with the framework document.”.

Commencement Information

I2 S. 114 in force at 1.10.2012 for specified purposes by S.S.I. 2012/253, art. 2, Sch. (with art. 8(1)(2))

VALID FROM 01/04/2013

115 Local fire and rescue plans

After section 41C of the 2005 Act (inserted by section 114), insert—

“Local fire and rescue plans

41D Provision of local services

- (1) SFRS must ensure that there are adequate arrangements in place for the carrying out of its functions in each local authority area.
- (2) SFRS must involve each local authority in determining priorities and objectives for SFRS in connection with the carrying out in the local authority's area of SFRS's functions.

41E Local fire and rescue plans

- (1) As soon as is reasonably practicable after a strategic plan is approved under section 41A, SFRS must prepare a local fire and rescue plan for each local authority area.
- (2) A local fire and rescue plan is a plan setting out—
 - (a) priorities and objectives for SFRS in connection with the carrying out in the local authority's area of SFRS's functions,
 - (b) the reasons for selecting each of those priorities and objectives,
 - (c) how SFRS proposes to deliver those priorities and objectives,
 - (d) in so far as is reasonably practicable, outcomes by reference to which delivery of those priorities and objectives can be measured,
 - (e) how those priorities and objectives are expected to contribute to the delivery of any other relevant local outcomes which are identified by community planning,
 - (f) such other matters relating to the carrying out of SFRS's functions in the local authority's area as SFRS thinks fit.

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- (3) In preparing the local fire and rescue plan, SFRS must—
 - (a) have regard to the framework document and the strategic plan approved under section 41A,
 - (b) consult
 - (i) such persons as SFRS considers represent employees of SFRS, and
 - (ii) such other persons as SFRS considers appropriate.
- (4) SFRS must submit a plan prepared under subsection (1) for approval to the local authority for the area to which the plan relates.
- (5) If the plan is approved under subsection (4), SFRS must publish it.
- (6) In this section “community planning” means the community planning processes described in Part 2 of the Local Government in Scotland Act 2003 (asp 1).

41F Power to review plan

- (1) This section applies where a local fire and rescue plan is published under section 41E(5), subsection (4) or section 41G(5).
- (2) SFRS may at any time review the plan.
- (3) Following a review, SFRS may revise the plan.
- (4) Subsections (3) to (5) of section 41E apply in relation to a plan revised under subsection (3) as they apply in relation to a plan prepared under subsection (1) of that section but subject to the modification in subsection (5).
- (5) The modification is that the reference in section 41E(3)(a) to a plan approved under section 41A is to be read as if it were a reference to a plan approved under section 41A or, as the case may be, a new plan approved under section 41B.

41G Mandatory review

- (1) This section applies where a local fire and rescue plan is published under section 41E(5), section 41F(4) or subsection (5).
- (2) SFRS must review the local fire and rescue plan if—
 - (a) the Scottish Ministers make an order under section 40(4),
 - (b) a new strategic plan is approved under section 41B, or
 - (c) the plan is not revised under section 41F(3) or subsection (3) during the period of 3 years beginning with the publication of the plan.
- (3) Following a review under subsection (2)(a) or (b), SFRS may revise the plan.
- (4) Following a review under subsection (2)(c), SFRS must revise the plan.
- (5) Subsections (3) to (5) of section 41E apply in relation to a plan revised under subsection (3) or (4) as they apply in relation to a plan prepared

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under subsection (1) of that section but subject to the modification in subsection (6).

- (6) The modification is that the reference in section 41E(3)(a) to a plan approved under section 41A is to be read as if it were a reference to a plan approved under section 41A or, as the case may be, a new plan approved under section 41B.

41H Provision of information to local authority

SFRS must give to a local authority such information or reports relating to the carrying out of SFRS's functions in the authority's area (including reports given by reference to any local fire and rescue plan in force for the area) as the authority may reasonably request.

41J Local Senior Officers

- (1) After consulting the local authority, SFRS must designate an employee of SFRS as Local Senior Officer for each local authority area for the purpose of carrying out on behalf of SFRS the delegated functions.
- (2) The delegated functions are—
- (a) SFRS's functions under sections 41E to 41H,
 - (b) SFRS's function in relation to the provision of feedback to it under section 41K(1),
 - (c) SFRS's functions under section 16(1)(d) of the Local Government in Scotland Act 2003 (asp 1) (duty to participate in community planning),
 - (d) any other functions of SFRS which SFRS delegates to the Local Senior Officer.
- (3) The duty imposed on SFRS by subsection (1) must be carried out by the Chief Officer.
- (4) A person may be designated under subsection (1) in relation to more than one local authority area.
- (5) Subsection (1) does not affect—
- (a) SFRS's responsibility for the carrying out of the delegated functions,
 - (b) SFRS's ability to carry out the delegated functions.

41K Monitoring by local authority

- (1) A local authority may monitor and provide feedback to SFRS on the manner in which SFRS carries out its functions in the authority's area and (in particular) may provide to SFRS—
- (a) its views on any matter concerning or connected to the manner in which SFRS carries out those functions in the authority's area,
 - (b) any recommendations for improvements in the manner in which SFRS carries out those functions in the authority's area that it thinks fit.

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(2) A local authority may provide feedback by reference to any local fire and rescue plan in force for its area.”.

VALID FROM 01/04/2013

116 Annual report

After section 41K of the 2005 Act (inserted by section 115), insert—

“41L Annual report

- (1) As soon as is reasonably practicable after the end of each reporting year, SFRS must—
 - (a) prepare and publish an annual report,
 - (b) give a copy of the report to the Scottish Ministers, and
 - (c) lay a copy of the report before the Scottish Parliament.
- (2) An annual report is a report setting out—
 - (a) an assessment of SFRS's performance during the reporting year in acting in accordance with the framework document,
 - (b) an assessment of SFRS's performance during the reporting year in achieving the outcomes set out in the strategic plan approved under section 41A or, as the case may be, 41B, and
 - (c) such other information as SFRS thinks fit.
- (3) In this section, “reporting year” means—
 - (a) the period beginning on the day on which SFRS is established and ending
 - (i) on 31 March next occurring, or
 - (ii) if that period is of less than 6 months' duration, on 31 March next occurring after that, and
 - (b) each subsequent period of a year ending on 31 March.”.

117 Provision of information

After section 41L of the 2005 Act (inserted by section 116), insert—

“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.”.

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118 Directions by Scottish Ministers

After section 42 of the 2005 Act, insert—

“Directions

42A Directions

- (1) The Scottish Ministers may give SFRS general or specific directions.
- (2) SFRS must comply with a direction under this section.
- (3) Directions under this section may vary or revoke earlier directions under this section.
- (4) Directions under this section must be in writing.
- (5) The Scottish Ministers must—
 - (a) publish a direction given under this section, and
 - (b) lay a copy of it before the Scottish Parliament.
- (6) Nothing in this section enables the Scottish Ministers to give a direction in circumstances to which subsection (3) or (4) of section 41 applies.”.

Commencement Information

I3 [S. 118](#) in force at 1.10.2012 by [S.S.I. 2012/253](#), [art. 2](#), [Sch.](#)

VALID FROM 01/01/2013

119 Inspectors of SFRS

After section 43 of the 2005 Act, insert—

“CHAPTER 8B

INSPECTION

Inspectors of SFRS

43A Inspectors of SFRS

- (1) Her Majesty may by Order in Council appoint—
 - (a) a Chief Inspector of the Scottish Fire and Rescue Service, and
 - (b) such number of Inspectors of the Scottish Fire and Rescue Service as the Scottish Ministers may determine.
- (2) The Scottish Ministers may appoint Assistant Inspectors of the Scottish Fire and Rescue Service.

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- (3) The Scottish Ministers must pay to persons appointed under this section such remuneration as the Scottish Ministers may determine.
- (4) The Scottish Ministers may authorise an Inspector to carry out any of the functions conferred on the Chief Inspector by or under this Act or any other enactment if—
 - (a) there is a temporary vacancy in the office of Chief Inspector, or
 - (b) the Scottish Ministers consider that the Chief Inspector is temporarily unable to carry out the Chief Inspector's functions.
- (5) A person who, immediately before the coming into force of section 119 of the Police and Fire Reform (Scotland) Act 2012 (asp 8), is by virtue of section 43—
 - (a) the Chief Inspector of Fire and Rescue Authorities is taken to have been appointed under subsection (1)(a),
 - (b) an Inspector of Fire and Rescue Authorities is taken to have been appointed under subsection (1)(b), and
 - (c) an Assistant Inspector of Fire and Rescue Authorities is taken to have been appointed under subsection (2).
- (6) In this Act—

“Chief Inspector” means a person appointed under subsection (1)(a), and

“Inspector” means a person appointed under subsection (1) or (2).

43B Inquiries by Inspectors

- (1) An Inspector may inquire into a matter mentioned in subsection (3).
- (2) If directed to do so by the Scottish Ministers, an Inspector must inquire into a matter mentioned in subsection (3).
- (3) The matters are—
 - (a) the state and efficiency of SFRS,
 - (b) whether in carrying out its functions SFRS is complying with its duty under section 39A to make arrangements which secure best value,
 - (c) the manner in which SFRS is carrying out any of its functions.
- (4) In carrying out an inquiry under this section an Inspector may—
 - (a) require SFRS to provide any information or documents relating to the functions of SFRS that the Inspector may require,
 - (b) enter and inspect any premises which are used by SFRS,
 - (c) inspect any equipment which is used by SFRS.
- (5) If an Inspector exercises a power of entry by virtue of subsection (4)(b), the Inspector may—
 - (a) take onto the premises
 - (i) such other persons, and
 - (ii) such equipment,as the Inspector considers necessary,

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(b) require any person present on the premises to provide the Inspector with any information or documents that the Inspector may reasonably request.

(6) An Inspector may not under subsection (4)(b)—

- (a) enter or inspect premises occupied as a private dwelling,
- (b) enter premises by force.

(7) SFRS must provide such facilities, assistance and co-operation as an Inspector may reasonably request for the purposes of, or in connection with, an inquiry under this section.

43C Inquiries under section 43B(1): reports

(1) This section applies where an inquiry under section 43B(1) has been completed.

(2) The Chief Inspector must give SFRS a report of the inquiry.

(3) If a report given to SFRS under subsection (2) relates to a matter mentioned in section 43B(3)(a) or (b), the Chief Inspector must—

- (a) as soon as is reasonably practicable after giving the report to SFRS, give the Scottish Ministers a copy of the report, and
- (b) give the Scottish Ministers any other information relating to the inquiry that they may request.

(4) If a report given to SFRS under subsection (2) does not relate to a matter mentioned in section 43B(3)(a) or (b), the Chief Inspector—

- (a) may give the Scottish Ministers a copy of the report if the Chief Inspector thinks fit,
- (b) may give the Scottish Ministers any other information in relation to the report that the Chief Inspector thinks fit,
- (c) must give the Scottish Ministers any information relating to the inquiry that the Scottish Ministers may request.

(5) The Chief Inspector must lay before the Scottish Parliament a copy of a report given to the Scottish Ministers under subsection (3)(a).

43D Inquiries under section 43B(2): reports

(1) This section applies where an inquiry under section 43B(2) has been completed.

(2) The Chief Inspector must give the Scottish Ministers—

- (a) a report of the inquiry, and
- (b) any other information relating to the inquiry that the Scottish Ministers may request.

(3) As soon as is reasonably practicable after giving the report to the Scottish Ministers under subsection (2)(a), the Chief Inspector must give a copy of the report to SFRS.

(4) The Scottish Ministers must lay before the Scottish Parliament a copy of the report given to them under subsection (2)(a).

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43E Inquiry reports: duties of SFRS

In carrying out its functions, SFRS must have regard to a report given to it under section 43C(2) or 43D(3) and, having done so, must take such measures (if any) as it thinks fit in relation to the report.

43F Chief Inspector's plan

- (1) The Chief Inspector must prepare a plan setting out—
 - (a) priorities for inquiries to be carried out by Inspectors, and
 - (b) information on how inquiries will be carried out in a way which is proportionate, accountable and transparent.
- (2) The Chief Inspector—
 - (a) must keep the plan under review, and
 - (b) may from time to time revise the plan.
- (3) The Chief Inspector must, in preparing a plan (and any revised plan), consult such persons as the Chief Inspector considers appropriate.
- (4) The Chief Inspector must publish the plan (and any revised plan) in such manner as the Chief Inspector thinks fit.

Co-operation and information-sharing

43G Co-operation and information-sharing: Auditor General

- (1) The Inspectors and the Auditor General must co-operate and co-ordinate activity with each other with a view to improving the carrying out of their respective functions in relation to SFRS.
- (2) In particular, the Inspectors and the Auditor General must together make arrangements with a view to—
 - (a) securing the exchange of information between them about SFRS,
 - (b) preventing any unnecessary duplication in relation to any inspections, investigations, inquiries or examinations carried out, or to be carried out, by them in relation to SFRS.
- (3) The duties imposed by subsections (1) and (2) do not apply in so far as compliance with them would prevent or delay any of the persons on whom they are imposed in taking any action which the person considers to be necessary as a matter of urgency.”.

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VALID FROM 01/04/2013

120 Prohibition on employment of police

In section 51 of the 2005 Act (prohibition on employment of police), after “constable” insert “ (other than a special constable appointed under section 9 of the Police and Fire Reform (Scotland) Act 2012 (asp 8)) ”.

General

121 Transfer of staff, property etc.

Schedule 6 makes provision about the transfer of staff, property, rights, liabilities and obligations.

Commencement Information

I4 S. 121 in force at 1.10.2012 by S.S.I. 2012/253, art. 2, Sch.

122 SFRS: transitory provision

- (1) A person mentioned in subsection (2) must provide SFRS with such information or assistance as SFRS may reasonably require.
- (2) Those persons are—
 - (a) a fire and rescue authority within the meaning of section 1 of the 2005 Act,
 - (b) a joint fire and rescue board constituted by a scheme made under section 2(1) of the 2005 Act.
- (3) Subsection (4) applies until the coming into force of section 101(1) for the purpose of inserting section 1A(2) into the 2005 Act.
- (4) Despite paragraph 2(1) of schedule 1A to the 2005 Act, SFRS may consist of—
 - (a) the chairing member, or
 - (b) the chairing member and fewer than 10 other members.

Commencement Information

I5 S. 122 partly in force; s. 122(3)(4) in force at 8.8.2012 see s. 129(1)(b)

I6 S. 122(1)(2) in force at 1.10.2012 by S.S.I. 2012/253, art. 2, Sch.

123 Meaning of “the 2005 Act”

In this Part, “the 2005 Act” means the Fire (Scotland) Act 2005 (asp 5).

Status:

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Changes to legislation:

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