



# Fire (Scotland) Act 2005

## 2005 asp 5

### PART 2

#### FIRE AND RESCUE SERVICES

#### [<sup>F1</sup>CHAPTER 8A

#### PLANNING, REPORTS AND INFORMATION

##### Textual Amendments

- F1** Pt. 2 Ch. 8A heading and ss. 41A-41C inserted (1.10.2012 for the purpose of inserting s. 41A, 1.4.2013 so far as not already in force) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 114, 129(2)**; [S.S.I. 2012/253](#), **art. 2**, [Sch.](#) (with [art. 8\(1\)\(2\)](#)); [S.I. 2013/51](#), **art. 2**

#### *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,

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- (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.

**Modifications etc. (not altering text)**

**C1** S. 41A(7): appointed day (29.4.2013) by [The Scottish Fire and Rescue Service \(Framework and Appointed Day for Strategic Plan\) Order 2013 \(S.S.I. 2013/97\)](#), arts. 1, 3

**41B Review of plan**

- (1) This section applies where—
- (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,

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- (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.

#### **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.]

#### *f<sup>F2</sup>Local fire and rescue plans*

##### **Textual Amendments**

- F2** Ss. 41D-41K and cross-heading inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), [ss. 115, 129\(2\)](#); [S.S.I. 2013/51](#), [art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

#### **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.

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- (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.
- (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 [F3Community Empowerment (Scotland) Act 2015].

#### **Textual Amendments**

- F3** Words in s. 41E(6) substituted (20.12.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), s. 142(1), [sch. 4 para. 9\(a\)](#); S.S.I. 2016/410, art. 2(a)

#### **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.

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- (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 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 [F4Part 2 of the Community Empowerment (Scotland) Act 2015 (community planning)],
  - (d) any other functions of SFRS which SFRS delegates to the Local Senior Officer.

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- (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.

#### **Textual Amendments**

**F4** Words in s. 41J(2)(c) substituted (20.12.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), s. 142(1), [sch. 4 para. 9\(b\)](#); S.S.I. 2016/410, art. 2(a)

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

#### **[<sup>F5</sup>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.]

*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Chapter 8A. (See end of Document for details)*

#### Textual Amendments

- F5** S. 41L inserted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 116**, 129(2); [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))

### [<sup>F6</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

- F6** S. 41M inserted (8.8.2012) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 117**, 129(1)(b)

### <sup>F7</sup>42 Reporting

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#### Textual Amendments

- F7** S. 43 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 2**; [S.S.I. 2013/51](#), **art. 2** (with transitional provisions and savings in [S.S.I. 2013/121](#))

### <sup>F8</sup>Directions

#### Textual Amendments

- F8** S. 42A and cross-heading inserted (1.10.2012) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), **ss. 118**, 129(2); [S.S.I. 2012/253](#), **art. 2**, **Sch.**

### 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.

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(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.]

*Inspection*

<sup>F7</sup>**43 Inspectors of Fire and Rescue Authorities**

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**Textual Amendments**

**F7** S. 43 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 2**; [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#))



**Changes to legislation:**

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