

*Changes to legislation: There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Schedule A1. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE A1

Sections 4A(7) and 4H(7)

#### PROCEDURE FOR ORDERS UNDER SECTION 4A

##### Textual Amendments

- F1** Sch. A1, Sch. A2 inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 13**; S.I. 2017/399, reg. 2, Sch. para. 38

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

- C1** Sch. A1 excluded (8.5.2017) by The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), art. 1(2), **Sch. 2 para. 20(c)**

#### <sup>F1</sup>Proposal for order under section 4A

- 1 (1) A proposal for an order under section 4A (a “section 4A proposal”) must contain an assessment of why—
- it is in the interests of economy, efficiency and effectiveness for the order to be made, or
  - it is in the interests of public safety for the order to be made.
- (2) If the proposal suggests that an order under section 4A should be combined with an order under section 4H (delegation to chief constable for police area), the proposal must set out the reasons for that suggestion.

#### <sup>F1</sup>Duty of relevant fire and rescue authority to cooperate in preparation of proposal

- 2 (1) A relevant fire and rescue authority must cooperate with a relevant police and crime commissioner in the preparation of a section 4A proposal.
- (2) A relevant fire and rescue authority must, in particular, provide a relevant police and crime commissioner with such information held by the authority as the commissioner reasonably requires for the purposes of the preparation of the proposal.
- (3) Sub-paragraph (2) does not require the authority to provide information if to do so would breach—
- any obligation of confidence owed by the authority, or
  - any other restriction on the disclosure of information (however imposed).
- (4) Sub-paragraphs (1) and (2) do not apply if the proposal is for an order to create a fire and rescue authority for an area which, before the order is made, contains only the areas of two or more fire and rescue authorities created by order under section 4A.

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*F1* *Consultation on proposal*

- 3 (1) Before submitting a section 4A proposal to the Secretary of State, a relevant police and crime commissioner must—
- (a) consult each relevant local authority about the proposal,
  - (b) consult people in the commissioner’s police area about the proposal,
  - (c) consult each of the following about the proposal—
    - (i) persons appearing to the commissioner to represent employees who may be affected by the proposal;
    - (ii) persons appearing to the commissioner to represent members of a police force who may be so affected, and
  - (d) publish, in such manner as the commissioner thinks appropriate, the commissioner’s response to the representations made or views expressed in response to those consultations.
- (2) Each consultation under sub-paragraph (1) is to be carried out in such manner as the relevant police and crime commissioner thinks appropriate.

*F1* *Provision of representations to Secretary of State*

- 4 (1) Sub-paragraphs (2) to (4) apply if, in response to a consultation by a relevant police and crime commissioner under paragraph 3(1)(a), a relevant local authority indicates that it does not support a section 4A proposal.
- (2) The commissioner must, in submitting the proposal to the Secretary of State, provide the Secretary of State with—
- (a) copies of each document provided by the commissioner for the purposes of paragraph 3,
  - (b) copies of each representation made by a relevant local authority in response,
  - (c) a summary of the views expressed by people in the commissioner’s police area about the proposal,
  - (d) a summary of the views expressed about the proposal by persons consulted under paragraph 3(1)(c), and
  - (e) the commissioner’s response to those representations and views.
- (3) The Secretary of State must—
- (a) obtain an independent assessment of the proposal, and
  - (b) have regard to that assessment and to the material provided to the Secretary of State under sub-paragraph (2) in deciding whether to make an order under section 4A in response to the proposal.
- (4) The Secretary of State must publish the independent assessment—
- (a) as soon as is reasonably practicable after making a determination in response to the proposal, and
  - (b) in such manner as the Secretary of State thinks appropriate.

*F1* *Decision by Secretary of State*

- 5 (1) Subject to sub-paragraphs (2) and (3), the Secretary of State may, in making an order under section 4A, give effect to the proposal for the order with such modifications as the Secretary of State thinks appropriate.

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- (2) If paragraph 1(2) applies to the proposal, the Secretary of State may not in response to the proposal make an order under section 4A which is not combined with an order under section 4H.
- (3) Before making an order which gives effect to the proposal for the order with modifications, the Secretary of State must consult the following on the modifications—
  - (a) the relevant police and crime commissioner;
  - (b) each relevant local authority.

#### *<sup>F1</sup>Interpretation*

- 6 (1) In this Schedule “section 4A proposal” has the meaning given by paragraph 1(1).
- (2) In this Schedule “relevant police and crime commissioner”, in relation to a section 4A proposal, means a police and crime commissioner—
  - (a) whose police area is the same as, or contains all of, the area of the fire and rescue authority proposed to be created by the order, or
  - (b) all or part of whose police area falls within the area of that fire and rescue authority.
- (3) Any changes to the police areas contained in the proposal are to be disregarded in determining who is a relevant police and crime commissioner for the purposes of sub-paragraph (2).
- (4) If there is more than one relevant police and crime commissioner in relation to a section 4A proposal, references in this Schedule to the relevant police and crime commissioner are to all of those police and crime commissioners acting jointly.
- (5) In this Schedule “relevant fire and rescue authority”, in relation to a section 4A proposal prepared by a police and crime commissioner, means a fire and rescue authority—
  - (a) whose area is the same as, or contains all of, the police area of the police and crime commissioner, or
  - (b) all or part of whose area falls within the police area of the police and crime commissioner.
- (6) In this Schedule “relevant local authority”, in relation to a section 4A proposal, means a local authority—
  - (a) whose area is the same as, or contains all of, the area of the fire and rescue authority proposed to be created by the order, or
  - (b) all or part of whose area falls within the area of that fire and rescue authority.
- (7) In sub-paragraph (6) “local authority” means—
  - (a) a county council,
  - (b) a district council for an area for which there is no county council,
  - (c) the Council of the Isles of Scilly, or
  - (d) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 which exercises the functions of a fire and rescue authority by virtue of section 105 or 105A of that Act.

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*F1* Application of this Schedule to certain orders under section 4H

- 7 (1) This paragraph makes provision about the application of this Schedule to an order under section 4H which is not combined, or proposed to be combined, with an order under section 4A (a “section 4H order”).
- (2) Subject as follows, this Schedule applies to a section 4H order as it applies to an order under section 4A.
- (3) The following provisions of this Schedule do not apply in relation to a section 4H order—
- (a) paragraph 1(2);
  - (b) paragraph 5(2);
  - (c) paragraph 6.
- (4) In the application of this Schedule to a section 4H order—
- (a) “relevant police and crime commissioner” means the police and crime commissioner for the police area—
    - (i) which corresponds to the area of the fire and rescue authority to which the order relates, or
    - (ii) within which the area of that fire and rescue authority falls;
  - (b) “relevant fire and rescue authority” means that fire and rescue authority, and
  - (c) “relevant local authority” means a local authority (within the meaning of paragraph 6(7))—
    - (i) whose area is the same as, or contains all of, the area of that fire and rescue authority, or
    - (ii) all or part of whose area falls within the area of that fire and rescue authority.]

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