



# Fire and Rescue Services Act 2004

## 2004 CHAPTER 21

### PART 1

#### FIRE AND RESCUE AUTHORITIES

##### *[<sup>F1</sup>Powers of certain fire and rescue authorities]*

##### **[<sup>F1</sup>5B Boundaries of power under section 5A**

- (1) Section 5A(1) does not enable a relevant fire and rescue authority to do—
  - (a) anything which the authority is unable to do by virtue of a pre-commencement limitation, or
  - (b) anything which the authority is unable to do by virtue of a post-commencement limitation which is expressed to apply—
    - (i) to its power under section 5A(1),
    - (ii) to all of the authority's powers, or
    - (iii) to all of the authority's powers but with exceptions that do not include its power under section 5A(1).
- (2) If exercise of a pre-commencement power of a relevant fire and rescue authority is subject to restrictions, those restrictions apply also to exercise of the power conferred on the authority by section 5A(1) so far as it is overlapped by the pre-commencement power.
- (3) Where under section 5A(1) a relevant fire and rescue authority does things for a commercial purpose, it must do them through—
  - (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
  - (b) [<sup>F2</sup>a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014 or a society registered or deemed to be registered under ] the Industrial and Provident Societies Act (Northern Ireland) 1969.

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*Changes to legislation: There are currently no known outstanding effects for the  
 Fire and Rescue Services Act 2004, Section 5B. (See end of Document for details)*

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- (4) Section 5A(1) does not authorise a relevant fire and rescue authority to do things for a commercial purpose in relation to a person if a statutory provision requires the authority to do those things in relation to the person.
- (5) Section 5A(1) does not authorise a relevant fire and rescue authority to borrow money.
- [ Section 5A(1) does not authorise the London Fire Commissioner to enter into a  
<sup>F3</sup>(5A) contract to which this subsection applies without the consent of the Mayor of London.
- (5B) Subsection (5A) applies to a contract if—
- (a) the Mayor of London has notified the London Fire Commissioner that the Commissioner requires the Mayor’s consent before entering into a contract of a kind specified in the notification, and
  - (b) the contract is of that kind.]
- (6) Section 5A(1)(a) to (d) do not authorise a relevant fire and rescue authority to charge a person for any action taken by the authority (but see section 18A).
- (7) Section 18B(1) to (8) apply in relation to charging for things done for a commercial purpose in exercise of power conferred by section 5A(1)(e) as they apply in relation to charging under section 18A(1).
- (8) In this section—
- “Act” (except in a reference to the Localism Act 2011) includes an Act, or Measure, of the National Assembly for Wales;
- “passed” in relation to an Act, or Measure, of the National Assembly for Wales means enacted;
- “post-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
- (a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or
  - (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 9(1) of that Act;
- “pre-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
- (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
  - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 9(1) of that Act;
- “pre-commencement power” means power conferred by a statutory provision that—
- (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
  - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 9(1) of that Act;
- “relevant fire and rescue authority” has meaning given by section 5A(3);
- “statutory provision” means a provision of an Act or of an instrument made under an Act. ]

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**Changes to legislation:** There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Section 5B. (See end of Document for details)

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#### Textual Amendments

- F1** Ss. 5A-5L inserted (18.2.2012 for specified purposes, 1.4.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), ss.**9(1)**, 240(4)(a); S.I. 2012/411, art. 2(c); S.I. 2012/887, art. 2(a)
- F2** Words in s. 5B(3)(b) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, **Sch. 4 para. 86** (with Sch. 5)
- F3** S. 5B(5A)(5B) inserted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 2 para. 113**; S.I. 2018/227, **reg. 4(c)**

**Changes to legislation:**

There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Section 5B.