

2020 No. 186

FIRE AND RESCUE SERVICES, ENGLAND

**The Hampshire and Isle of Wight Fire and Rescue Authority
(Combination Scheme) Order 2020**

Made - - - - - *25th February 2020*

Laid before Parliament *26th February 2020*

Coming into force in accordance with article 1

The Secretary of State makes this Order in exercise of the powers conferred by sections 2(1) and (4), 3(1), (2), (3)(a) to (g) and (6) to (9), 4(4) and 60(2) of the Fire and Rescue Services Act 2004(a).

It appears to the Secretary of State, in accordance with section 2(2)(a) of the Fire and Rescue Services Act 2004, that it is in the interests of economy, efficiency and effectiveness that there should be a single fire and rescue authority for the combined area of the Hampshire Fire and Rescue Authority and the Isle of Wight Fire and Rescue Authority.

This Order is made to give effect to a draft scheme submitted to the Secretary of State by Hampshire Fire and Rescue Authority and Isle of Wight Fire and Rescue Authority and includes a modification to the draft scheme which seems appropriate to the Secretary of State after consulting those authorities.

Citation and commencement

1.—(1) This Order may be cited as the Hampshire and Isle of Wight Fire and Rescue Authority (Combination Scheme) Order 2020.

(2) This article, article 2 and the Schedule come into force on 1st April 2020.

(3) Article 3, article 4 and article 5 come into force on 1st April 2021.

Combination scheme

2.—(1) The scheme set out in the Schedule has effect.

(2) The scheme is to be known as the Hampshire and Isle of Wight Fire and Rescue Authority Combination Scheme.

Revocation

3. The Hampshire Fire Services (Combination Scheme) Order 1996(b) is revoked.

(a) 2004 c. 21; section 3(6) to (9) was inserted by section 7(10) and (12) of the Policing and Crime Act 2017 (c. 3).

(b) S.I. 1996/2923 amended by S.I. 2017/1165.

Winding-up of existing fire and rescue authorities

4.—(1) In the Fire and Rescue Authority (Membership) Order 2017^(a)(which makes provision for the Hampshire Fire and Rescue Authority to appoint a relevant police and crime commissioner as a member of the Authority) omit article 3 and Schedule 1.

(2) The Hampshire and Isle of Wight Fire and Rescue Authority may do anything necessary for the purpose of winding-up the affairs of the Hampshire Fire and Rescue Authority or the Isle of Wight Fire and Rescue Authority.

(3) For the purpose mentioned in paragraph (2), any function which would have been exercisable by the Hampshire Fire and Rescue Authority or the Isle of Wight Fire and Rescue Authority on or after 1st April 2021 but for the amendment made by paragraph (1) may be exercised by the Hampshire and Isle of Wight Fire and Rescue Authority.

Modification

5.—(1) The Local Government Pension Scheme Regulations 2013^(b) are modified as follows.

(2) Regulation 64 (special circumstances where revised actuarial valuations and certificates must be obtained) is to be read as if after paragraph (8) there were inserted—

“(8A) Paragraph (8B) applies where—

- (a) the exiting employer is the Isle of Wight Fire and Rescue Authority or the Hampshire Fire and Rescue Authority, and
- (b) the liabilities of the funds in respect of benefits due to current and former employees of either authorities (or those of any predecessor authority) have been or are to be transferred to the Hampshire and Isle of Wight Fire and Rescue Authority by virtue of this Order.

(8B) Where this paragraph applies—

- (a) no exit payment is due under paragraph (1);
- (b) no exit credit is payable under paragraph (1), and
- (c) paragraph (2) does not apply.”

James Brokenshire
Minister of State for Security
Home Office

25th February 2020

SCHEDULE

Article 2

The Hampshire and Isle of Wight Fire and Rescue Authority Combination Scheme

PART 1

Commencement and Interpretation

Commencement

1.—(1) This scheme comes into force on 1st April 2020 for the purpose of—

^(a) S.I. 2017/1165.

^(b) S.I. 2013/2356, amended by S.I. 2018/493; there are other amending instruments but none is relevant.

- (a) constituting the Hampshire and Isle of Wight Fire and Rescue Authority as the fire and rescue authority, and
 - (b) the performance by that authority of any functions necessary for bringing the scheme fully into force on 1st April 2021.
- (2) The scheme comes into force for all other purposes, on 1st April 2021.

Interpretation

2. In this Scheme—

“the 2011 Act” means the Police Reform and Social Responsibility Act 2011(a);

“the Authority” means the fire and rescue authority constituted in accordance with paragraph 4;

“constituent authority” means Hampshire County Council, Isle of Wight Council, Portsmouth City Council and Southampton City Council;

“relevant police and crime commissioner” means a police and crime commissioner—

- (a) whose area is the same as, or contains all of, the area of the Authority, or
- (b) all or part of whose area falls within the area of the authority.

PART 2

General

The combined area

3. The combined area is the areas of Hampshire County Council, Isle of Wight Council, Portsmouth City Council and Southampton City Council.

The combined fire and rescue authority

4.—(1) There is constituted as a fire and rescue authority for the combined area a body corporate to be known as the Hampshire and Isle of Wight Fire and Rescue Authority.

(2) The Authority is constituted in accordance with the provisions of Part 3 of this Scheme.

Financial provision

5.—(1) The Hampshire Fire and Rescue Authority and the Isle of Wight Fire and Rescue Authority (“the existing authorities”) must meet the costs of the Authority incurred for the purpose of bringing the Scheme into full operation on 1st April 2021.

(2) The amount payable by the existing authorities is to be determined by apportioning the costs of the Authority between the existing authorities in the proportion to the council tax base of each authority.

(a) 2011 c. 13.

PART 3

Composition and proceedings of the Authority

Duty to appoint members and number of members

6.—(1) Each constituent authority must appoint as members of the Authority such number of members of the constituent authority as determined by the Authority.

(2) In determining the number of members to be appointed by each constituent authority, the Authority must, so far as practicable, ensure that the number of members is proportionate to the number of local government electors in their area in relation to the number of such electors in the areas of each of the other constituent authorities.

(3) On 1st April 2021 there must be 11 members of the Authority.

(4) Thereafter the number of members may be determined by the Authority but must not exceed 25.

(5) Each member of the Authority is appointed in accordance with this Part.

Appointment of a relevant police and crime commissioner as a member of the authority

7.—(1) The Authority may appoint a relevant police and crime commissioner to be a member of the authority.

(2) But the Authority may only make such an appointment in response to a request from the relevant police and crime commissioner.

(3) If the Authority receives a request from a relevant police and crime commissioner, it must—

- (a) consider the request;
- (b) agree to or refuse the request;
- (c) give reasons for its decision to agree to or refuse the request, and
- (d) publish those reasons in such manner as it thinks appropriate.

Arrangement for another person to attend meetings on behalf of the relevant police and crime commissioner

8.—(1) Sub-paragraph (2) applies where a relevant police and crime commissioner—

- (a) is appointed as a member of the Authority, and
- (b) arranges, under section 18 of the 2011 Act, for another person to attend a meeting of the Authority on the relevant police and crime commissioner's behalf.

(2) Where this sub-paragraph applies, the person attending the meeting on behalf of the relevant police and crime commissioner may speak at that meeting but—

- (a) may not vote, and
- (b) is not to be treated as a member of the Authority for any purpose.

Office of Authority members

9. A member of the Authority appointed under paragraph 7 comes into office on the date of their appointment and, subject to paragraphs 11 to 13, holds office for such period or periods as determined by the constituent authority which appoints them.

Appointment of relevant police and crime commissioner as Authority member

10.—(1) A relevant police and crime commissioner appointed as a member of the Authority under paragraph 8—

- (a) comes into office on the date of that appointment, and

- (b) continues to be a member of the Authority until the relevant police and crime commissioner's term of office comes to an end in accordance with section 50(7)(b) of the 2011 Act.

(2) But if a vacancy arises in the office of the relevant police and crime commissioner (see section 59 of the 2011 Act) before the end of that term, the relevant police and crime commissioner ceases to be a member of the Authority on the date on which the vacancy in the office is regarded under section 59(1) of the 2011 Act as occurring.

Resignation from the Authority membership

11. A member of the Authority may resign their membership of the Authority by giving notice in writing to the officer of the Authority whose function it is to receive such notice.

Cessation of membership of the Authority

12.—(1) A member of the Authority who ceases to be a member of the constituent authority which appointed that person ceases to be a member of the Authority.

(2) A person is disqualified from being a member of the Authority if they hold any paid office or employment to which sub-paragraph (3) applies.

(3) This sub-paragraph applies to any paid office or employment (other than the office of chair or vice chair of the Authority), appointments to which are or may be made or confirmed by—

- (a) the Authority;
- (b) any committee or sub-committee of the Authority, or
- (c) a joint committee or board on which the Authority are represented.

(4) For the avoidance of doubt any agreed allowance received for the purpose of being a member of the Authority will not cause a member to be disqualified.

Appointment of a replacement member

13. If a member of the Authority appointed by a constituent authority resigns, becomes disqualified or otherwise ceases to be a member of the Authority within the last six months of the member's intended term of office, the constituent authority which appointed them is not required to appoint a replacement member for the remainder of the intended term unless—

- (a) on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the Authority exceeds one third of the number of members of the Authority referred to in paragraph 6, or
- (b) without such an appointment a meeting of the Authority would not be quorate as a result of the quorum requirements imposed by paragraph 16.

Election of chair or vice-chair

14.—(1) The Authority must elect a chair, and may elect a vice-chair, from among its members.

(2) Subject to paragraphs 11 to 13, the chair and (if elected) the vice-chair hold office for such period or periods, not exceeding one year, as the Authority determines.

(3) Sub-paragraph (2) does not prevent a person who holds or has held office as chair or vice-chair from being elected or re-elected to either of those offices.

(4) On a casual vacancy occurring in the office of chair or, if a vice-chair has been elected, the vice-chair, the Authority must elect from its members a person to replace the chair, and may elect a person to replace the vice-chair.

(5) The election to replace the chair under sub-paragraph (4) must take place not later than the next ordinary meeting of the Authority.

First meeting of the Authority

15. The first meeting of the Authority must be—

- (a) held as soon as is practicable, and
- (b) convened by the clerk to the Hampshire Fire and Rescue Authority.

Quorum requirement of meetings

16. At a meeting of the Authority the quorum is one half of the total number of members of the Authority, or such greater number of members as the Authority may determine, including at least one member by any two of the constituent authorities.

Application of general provisions of the Local Government Act 1972

17. Sections 85(1), (2) and (3), 99 (in so far as it relates to Part 6 of Schedule 12), 101 to 103, 106, 120, 121 and 123 of, and Part 6 of Schedule 12 to, the Local Government Act 1972^(a) apply to the Authority and its members as if references in those provisions to a principal council or a local authority were references to the Authority.

PART 4

Officers and employees of the Authority

Continuity of employment and transfer of employment, rights, powers, duties and liabilities

18.—(1) Subject to paragraph 19, the contract of employment of any person employed by the existing authorities immediately before 1st April 2021 shall have effect on or after 1st April 2021 as if originally made between the person so employed and the Authority.

(2) All of the rights, powers, duties and liabilities of the existing authorities under or in connection with any such contract are transferred to the Authority.

(3) Any act or omission before 1st April 2021, in relation to the transfer of that contract, is deemed to have been an act or omission in relation to the Authority.

Employee objection to employment by the Authority

19. Where an employee informs the existing authorities that they object to becoming employed by the Authority—

- (a) The employee's contract of employment and any rights, powers, duties and liabilities under or in connection with it do not transfer under paragraph 18(1) and (2);
- (b) the employee's contract of employment with the existing authorities is terminated on 1st April 2021, and
- (c) the employee is not be treated, for any purpose, as having been dismissed by either of the existing authorities.

(a) 1972 c. 70; section 85 was amended by S.I.2001/2327, S.I.2002/808, S.I.2002/808, S.I. 2008/172, S.I. 2012/1714, S.I. 2012/2913; there are other amending instruments but none is relevant. Section 99 was amended by S.I. 2009/3318; there are other amending instruments but none is relevant. Section 101 was amended by 2001/1517, S.I. 2002/803, S.I.2008/917, S.I.2009/400, S.I.2009/3318, S.I. 2012/1008. Section 102 was amended by S.I.2001/1517,S.I. 2002/803, S.I. 2012/1008; there are other instruments but none are relevant. Section 103 was amended by S.I. 1996/396; there are other amending instruments, but none is relevant. Section 120 was amended by S.I. 2011/3019; there are other amending instruments but none is relevant, Part 6 of Schedule 12 was amended by S.I. 1992/760, S.I. 2011/3019.

Employment by the Authority

20. The Authority may employ such persons as it considers necessary for the efficient discharge of its functions.

Authority use of constituent authority employees

21. The Authority may make arrangements with any constituent authority for the use by the Authority of the services of employees of the constituent authority and for the making of contracts and payments on behalf of the Authority by the constituent authority.

Relevant powers of local authorities under Local Government Act 1972

22. Sections 114, 115, 116, 117(1), (2) and (3) and 119 of the Local Government Act 1972 apply to the officers and employees of the Authority as if reference in those provisions to a local authority, other than references to a parish council, were references to the Authority(a).

PART 5

Property, rights and liabilities

Property etc held solely for fire and rescue authority purposes

23.—(1) All property, rights and liabilities held or incurred by the Hampshire Fire and Rescue Authority transfer to the Authority on 1st April 2021.

(2) Subject to sub-paragraph (3), all property, rights and liabilities held or incurred by Isle of Wight Fire and Rescue Authority, solely in connection with the provision of fire services, transfer to the Authority on 1st April 2021.

(3) The property, rights and liabilities transferred in accordance with sub-paragraph (2) do not include—

- (a) any property, rights and liabilities in respect of deferred and pensioner members of the Isle of Wight Council Pension Fund, and
- (b) any debt relating to transferring assets.

(4) All contracts, deeds, bonds, agreements, licences and other instruments subsisting in favour of, or against Hampshire Fire and Rescue Authority, will from 1st April 2021, be in full force and effect in favour of, or against the Authority.

(5) All contracts, deed, bonds, licences and instruments subsisting in favour of or against Isle of Wight Fire and Rescue Authority, solely in connection with the provision of fire services, will from 1st April 2021, be in full force and effect in favour of or against the Authority.

(6) All notices in force which were given or have effect as if given by the Hampshire Fire and Rescue Authority will from 1st April 2021, be in full force and effect in favour of, or against, the Authority.

(7) All notices in force which were given or have effect as if given by the Isle of Wight Fire and Rescue Authority, solely in connection with the provision of fire services, will from 1st April 2021, be in full force and effect in favour of, or against the Authority.

(8) Subject to sub-paragraph (3) for the purposes of this paragraph—

“property, rights and liabilities” includes all relevant pensions for civilians and fire officers.

“relevant pensions for civilian and fire officers” means—

(a) S.I. 2001/2337, S.I. 2002/808; there are other amending instruments but none is relevant, section 117(3) amended by sections 38 and 46 of the Criminal Justice Act 1982 (c. 48).

- (a) the Firemen’s Pension Scheme Order 1992(a);
- (b) the Firefighters’ Pension Scheme (England) Order 2006(b);
- (c) the Firefighters’ Pension Scheme (Amendment) (England) Order 2014(c);
- (d) the Firefighters’ Compensation Scheme (England) Order 2006(d);
- (e) the Local Government Pension Scheme Regulations 1997(e);
- (f) the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000(f);
- (g) the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007(g);
- (h) the Local Government Pension Scheme (Transitional Provisions) Regulations 2008(h);
- (i) the Local Government Pension Scheme Regulations 2013(i);
- (j) The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014(j).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order creates a combination scheme (“the Scheme”) which combines the areas of the Hampshire Fire and Rescue Authority and the Isle of Wight Fire and Rescue Authority (“the existing authorities”) into a combined fire and rescue authority. The area of the combined authority comprises the areas of Hampshire County Council, Isle of Wight Council, Portsmouth City Council and Southampton City Council. The Scheme comes into force on 1st April 2020 for the purpose of doing anything necessary to bring the Scheme fully into operation on 1st April 2021. The fire and rescue authority for the combined area is to be known as the Hampshire and Isle of Wight Fire and Rescue Authority (“the Authority”). The Scheme provides for the appointment and terms of office of its members, and for meetings of the Authority. The Scheme also provides for the transfer of staff, and certain property, rights and liabilities directly from the existing authorities to the Authority.

This Order also revokes the Hampshire Fire Service (Combination Scheme) Order 1996 (S.I. 1996/2923) and transfers the relevant fire functions and funding from the existing authorities to the Authority. This Order also omits the parts of the Fire and Rescue Authority (Membership) Order 2017 (S.I. 2017/1165) that relate to Hampshire Fire and Rescue Authority and makes equivalent provision in the Order.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sectors is foreseen.

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- (a) S.I.1992/129, amended by S.I. 1997/2309, S.I.1997/2851, S.I.1998/1010, S.I. 2001/3649, S.I. 2001/3961, S.I. 2004/2306, S.I. 2006/1810, S.I. 2006/3432, S.I. 2008/214, S.I. 2013/1392, S.I. 2013/2125, S.I. .2015/589, S.I. 2018/269.
 - (b) S.I.2006/3432, amended by sections 3 and 17 of the Employment Act 2002 and S.I.2006/3432, S.I. 2012/215, S.I. 2013/1393, S.I. 2014/445, S.I. 2015/589, S.I. 2015/590, S.I. 2018/269, S.I. 2018/997.
 - (c) S.I. 2014/446.
 - (d) S.I. 2006/1811, amended by S.I.2006/3434,2010/234, S.I. 2014/447, S.I. 2015/590, S.I. 2017/892, S.I. 2018/269, S.I. 2019/378.
 - (e) S.I. 1997/1612, amended by S.I.2014/525, S.I. 2014/560, S.I. 2014/3061.
 - (f) S.I.2000/1410, amended by S.I. 2006/2914, S.I. 2006/2914.
 - (g) S.I. 2007/1166, revoked by S.I. 2014/525 subject to transitional provisions.
 - (h) S.I. 2008/238, revoked by S.I. 2014/525 subject to transitional provisions, savings and amendments.
 - (i) S.I. 2013/2356, amended by S.I. 2014/1146 and 3255, S.I. 015/57 and 755, S.I. 2016/946, S.I. 2018/493 and 1366, S.I. 2019/383
 - (j) S.I. 2014/525, amended by S.I. 2015/755, S.I. 2018/493, S.I. 1366, S.I. 2019/1449

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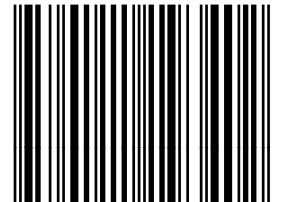
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