



# Fire (Scotland) Act 2005

## 2005 asp 5

### PART 2

#### FIRE AND RESCUE SERVICES

VALID FROM 02/08/2005

#### CHAPTER 1

##### APPOINTMENT OF CHIEF OFFICER

#### **7 Appointment of Chief Officer**

- (1) Each relevant authority shall appoint a person to be known as a Chief Officer.
- (2) A Chief Officer shall be responsible to the relevant authority for the discharge of the functions conferred on the authority by virtue of this Act by any person employed by the authority for the purpose of discharging those functions.

#### CHAPTER 2

##### PRINCIPAL FIRE AND RESCUE FUNCTIONS

VALID FROM 02/08/2005

#### **8 Fire safety**

- (1) Each relevant authority shall make provision for the purpose of promoting fire safety in its area.
- (2) In making provision under subsection (1) a relevant authority shall in particular, to the extent that the authority considers it reasonable to do so, make arrangements for—

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- (a) the provision of information, publicity and encouragement in respect of the steps to be taken to prevent—
  - (i) fires; and
  - (ii) death or injury by fire;
- (b) the giving of advice, on request, about—
  - (i) how to prevent fires and restrict their spread in buildings and other property; and
  - (ii) the means of escape from buildings and other property in the event of fire.

VALID FROM 02/08/2005

## 9 Fire-fighting

- (1) Each relevant authority shall make provision for the purpose of—
  - (a) extinguishing fires in its area; and
  - (b) protecting life and property in the event of fires in its area.
- (2) In making provision under subsection (1) a relevant authority shall in particular—
  - (a) secure the provision of the personnel, services and equipment necessary to meet efficiently all normal requirements;
  - (b) secure the provision of training for personnel;
  - (c) make arrangements for—
    - (i) dealing with calls for help; and
    - (ii) summoning personnel,
 in the event of fire;
  - (d) make arrangements for obtaining information required or likely to be required for the purpose mentioned in that subsection;
  - (e) make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from action taken for the purpose mentioned in that subsection.

VALID FROM 02/08/2005

## 10 Road traffic accidents

- (1) Each relevant authority shall make provision for the purpose of—
  - (a) rescuing persons in the event of road traffic accidents in its area; and
  - (b) to the extent that it considers it reasonable to do so, protecting persons from serious harm in the event of road traffic accidents in its area.
- (2) In making provision under subsection (1) a relevant authority shall in particular—
  - (a) secure the provision of the personnel, services and equipment necessary to meet efficiently all normal requirements;
  - (b) secure the provision of training for personnel;
  - (c) make arrangements for—

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- (i) dealing with calls for help; and
  - (ii) summoning personnel,
- in the event of road traffic accidents;
- (d) make arrangements for obtaining information required or likely to be required for the purpose mentioned in that subsection;
  - (e) make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from action taken for the purpose mentioned in that subsection.

## 11 Conferral of functions in relation to other emergencies

- (1) The Scottish Ministers may by order (an “additional function order”) confer on a relevant authority (the “specified authority”) a function relating to an emergency of a kind specified in the order (the “additional function”).
- (2) An additional function order may not specify as a kind of emergency—
  - (a) a fire; or
  - (b) a road traffic accident,in the area of the specified authority.
- (3) An additional function order may make provision for or in connection with—
  - (a) requiring the additional function to be carried out by the specified authority outwith its area;
  - (b) specifying what the specified authority shall or may do for the purpose of the additional function;
  - (c) requiring or authorising the specified authority—
    - (i) to secure the provision of personnel, services and equipment;
    - (ii) to secure the provision of training for personnel;
    - (iii) to make arrangements for dealing with calls for help and summoning personnel;
    - (iv) to make arrangements for obtaining information required or likely to be required for the purpose of carrying out the function;
    - (v) to make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from carrying out the function.

### Commencement Information

- II** S. 11 wholly in force at 2.8.2005; s. 11 not in force at Royal Assent see s. 90; s. 11 in force for certain purposes at 6.4.2005 by [S.S.I. 2005/207](#), [art. 3](#); s. 11 in force at 2.8.2005 in so far as not already in force by [S.S.I. 2005/392](#), [art. 2\(b\)](#)

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## CHAPTER 3

### ANCILLARY FUNCTIONS

VALID FROM 02/08/2005

#### 12 Emergency directions

- (1) The Scottish Ministers may issue a direction (an “emergency direction”) requiring a relevant authority to—
  - (a) take such action; or
  - (b) refrain from taking such action,in relation to a fire, or emergency of another kind, as is specified in the direction.
- (2) An emergency direction may require an authority to act outwith its area.
- (3) An emergency direction may be varied or revoked by a further such direction.

VALID FROM 02/08/2005

#### 13 Power to respond to other eventualities

- (1) A relevant authority may take any action it considers appropriate—
  - (a) in response to an event or situation that causes or is likely to cause—
    - (i) a person to die, be injured or become ill; or
    - (ii) harm to the environment (including the life and health of plants and animals and the fabric of buildings); or
  - (b) for the purpose of enabling it to take action in response to such an event or situation.
- (2) The power conferred by subsection (1)—
  - (a) includes power to secure the provision of equipment; and
  - (b) may be exercised by an authority within or outwith its area.

VALID FROM 02/08/2005

#### 14 Provision of other services

- (1) A relevant authority may provide—
  - (a) the services of any persons employed by it; or
  - (b) any equipment maintained by it,to any person for any purpose that appears to the authority to be appropriate.
- (2) An authority may provide services or equipment under this section within or outwith its area.

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## 15 Provision of centres for education and training

A relevant authority may establish and maintain one or more centres for providing education and training in matters in relation to which relevant authorities have functions.

## 16 Charging

- (1) The Scottish Ministers may by order (a “charging order”) authorise a relevant authority to charge a person of a description specified in the order for any action so specified taken by the authority.
- (2) A charging order may authorise a charge to be imposed on, or recovered from, a person other than the person in respect of whom action is taken by the authority.
- (3) A charging order may authorise charging for—
  - (a) extinguishing fires;
  - (b) protecting life; or
  - (c) protecting property in the event of fires,only in respect of action taken by the authority at sea (or, if the authority's area extends to the low water mark, action taken at sea outwith its area).
- (4) Where a relevant authority authorised by a charging order to charge for taking action of a particular description decides to do so—
  - (a) the amount of the charge shall be set by the authority;
  - (b) different amounts may be charged in different circumstances (and the authority may charge nothing).
- (5) In setting the amount of a charge, a relevant authority shall secure that, taking one financial year with another, the authority's income from charges does not exceed the cost to the authority of taking the action for which the charges are imposed.
- (6) In subsection (5) “financial year” means the period of 12 months ending on 31 March.

### Commencement Information

- I2** S. 16 wholly in force at 2.8.2005; s. 16 not in force at Royal Assent see s. 90; s. 16 in force for certain purposes at 6.4.2005 by [S.S.I. 2005/207](#), [art. 3](#); s. 16 in force at 2.8.2005 in so far as not already in force by [S.S.I. 2005/392](#), [art. 2\(b\)](#)

VALID FROM 02/08/2005

## [<sup>F1</sup>16A Exercise of powers at sea: further provision

- (1) Subsection (2) applies where a relevant authority has power to act, or is required to act, at sea.

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- (2) The power may be exercised or the duty carried out—
- (a) at sea in that part of the territorial sea of the United Kingdom which is not adjacent to Scotland; and
  - (b) at sea beyond the territorial sea of the United Kingdom.]

#### Textual Amendments

- F1** S. 16A inserted (2.8.2005 in accordance with art. 1(2)(b) of the amending S.I.) by [The Fire \(Scotland\) Act 2005 \(Consequential Provisions and Modifications\) Order 2005 \(S.I. 2005/2060\)](#), **art. 2(3)**; S.S.I. 2005/392, **art. 2(c)(d)** and said inserted provision expressed to be commenced on 1.10.2006 by S.S.I. 2006/458, **art. 2(a)** (subject to **art. 3**)

VALID FROM 02/08/2005

## CHAPTER 4

### WATER SUPPLY

#### *Supply and use of water*

#### 17 Duty to secure water supply

- (1) A relevant authority shall take all reasonable measures for securing that an adequate supply of water will be available for the authority's use for the purposes mentioned in subsection (2).
- (2) Those purposes are—
- (a) extinguishing fires in the area of the authority;
  - (b) protecting life and property in the event of fires in its area;
  - (c) rescuing people in the event of road traffic accidents in its area;
  - (d) protecting people from serious harm in the event of road traffic accidents in its area;
  - (e) carrying out any function conferred on the authority by an order under section 11; and
  - (f) fulfilling any requirement made of the authority by a direction given to it under section 12.

#### 18 Use of water

- (1) Subject to—
- (a) an agreement under section 19(1); and
  - (b) section 9A of the Water (Scotland) Act 1980 (c. 45) (charging for emergency use of water),
- a relevant authority may use any suitable supply of water for the purposes mentioned in section 17(2).

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- (2) A relevant authority shall pay reasonable compensation for water used by virtue of subsection (1).

## **19 Agreements in relation to water supply**

- (1) For the purposes of section 17, a relevant authority may—
- (a) enter into an agreement with Scottish Water; or
  - (b) enter into an agreement to—
    - (i) secure the use of water under the control of a person other than Scottish Water;
    - (ii) improve access to any such water;
    - (iii) lay and maintain pipes and carry out other works in connection with the use of such water.
- (2) Subject to section 9A of the Water (Scotland) Act 1980 (c. 45) (charging for emergency use of water), an agreement mentioned in subsection (1)(a) may include terms as to payment to be made to Scottish Water.
- (3) Scottish Water shall not unreasonably refuse to enter into an agreement mentioned in subsection (1)(a) which is proposed by a relevant authority.
- (4) Any question whether Scottish Water has unreasonably refused to enter into an agreement mentioned in subsection (1)(a) shall be determined by the Scottish Ministers.

## **20 Emergency supply by Scottish Water**

- (1) If a relevant authority requests Scottish Water to provide a supply or pressure of water for a purpose mentioned in section 17(2) that is greater than it would otherwise provide, it shall take all necessary steps in order to do so.
- (2) For the purposes of complying with its obligation under subsection (1) Scottish Water may shut off the water from the mains and pipes in any area.
- (3) Scottish Water (and any other person) shall not be liable to any penalty or claim arising because of anything done by Scottish Water in complying with its obligation under subsection (1).
- (4) If, without reasonable excuse, Scottish Water fails to take any step which it is obliged to take under subsection (1), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### *Fire hydrants*

## **21 Fire hydrants: provision etc.**

- (1) Sections 19 to 22 of Schedule 4 to the Water (Scotland) Act 1980 (c. 45) (requirement to provide fire hydrants etc.) shall apply to Scottish Water.
- (2) Scottish Water shall cause the location of every fire hydrant provided by it to be clearly indicated by—
- (a) a notice; or

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(b) a distinguishing mark.

- (3) Scottish Water may place such a notice or mark on a wall or fence adjoining a road or public place.
- (4) The expenses incurred by Scottish Water under subsection (2) in relation to a hydrant shall be borne by the relevant authority in whose area the hydrant is located.
- (5) The Scottish Ministers may make regulations providing for uniformity in—
  - (a) fire hydrants provided by Scottish Water; and
  - (b) notices or marks indicating locations of such hydrants.
- (6) Where a fire hydrant provided by Scottish Water is damaged as the result of any use made of it with the authority of Scottish Water (other than use for the purposes of fire-fighting or any other purposes of a relevant authority) the relevant authority in whose area the hydrant is located shall not be liable for the cost of repairing or replacing it.

## **22 Fire hydrants: recovery of costs**

- (1) Schedule 4 to the Water (Scotland) Act 1980 (c. 45) (provisions incorporated in orders relating to water undertakings) shall be amended as follows.
- (2) After section 21 insert—

The Scottish Ministers may by regulations make provision as to—

- (a) the persons (other than Scottish Water) from whom; or
- (b) the circumstances in which,

fire authorities may recover costs defrayed under section 21 of this Schedule.”.

- (3) In section 22, for the words “the last but one foregoing section” substitute “section 20 of this Schedule”.

## **23 Fire hydrants: offences**

- (1) A person who—
  - (a) uses a fire hydrant provided by Scottish Water otherwise than for a purpose mentioned in subsection (2); or
  - (b) damages or obstructs such a fire hydrant otherwise than in consequence of use for such a purpose,
 shall be guilty of an offence.
- (2) Those purposes are—
  - (a) fire-fighting;
  - (b) any other purpose of a relevant authority;
  - (c) any purpose authorised by Scottish Water.
- (3) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.



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### *Works affecting supply and hydrants*

#### **24 Notice of works affecting water supply and fire hydrants**

- (1) A person who proposes to carry out works for the purpose of supplying water to any part of the area of a relevant authority shall give the relevant period's notice in writing to the authority.
- (2) In subsection (1) the “relevant period” is—
  - (a) in the case where the works are proposed to be carried out to comply with a requirement imposed under any enactment other than the Water (Scotland) Act 1980 (c. 45), 14 days;
  - (b) in any other case, 6 weeks.
- (3) A person who proposes to carry out works affecting a fire hydrant shall give at least 7 days' notice in writing to the relevant authority in whose area the hydrant is situated.
- (4) If it is not practicable for a person to give notice as required by subsection (1) or (3), the person shall be regarded as having given such notice if it is given as soon as practicable.
- (5) A person who, without reasonable excuse, fails to give notice as required by subsection (1) or (3) shall be guilty of an offence.
- (6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

VALID FROM 23/06/2006

#### **[<sup>F2</sup>24A Use of electronic communication**

- (1) In section 24(1) and (3), the reference to the giving of notice in writing shall include the giving of notice by means of a document, the text of which—
  - (a) is received in legible form;
  - (b) is capable of being used for subsequent reference; and
  - (c) is sent by an electronic communication within the meaning of section 15(1) of the Electronic Communications Act 2000 (c. 7).]

#### **Textual Amendments**

- F2** S. 24A inserted (23.6.2006) by [The Electronic Communications \(Scotland\) Order 2006 \(S.S.I. 2006/367\)](#), [arts. 1\(1\)](#) {8}

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VALID FROM 02/08/2005

## CHAPTER 5

### POWERS OF EMPLOYEES AND CONSTABLES

#### *Powers in emergencies*

#### **25 Powers of authorised employees in relation to emergencies**

- (1) An employee of a relevant authority who is authorised in writing by the authority for the purposes of this section (an “authorised employee”) and on duty may—
- (a) if the employee reasonably believes that a fire has broken out, do anything the employee reasonably believes to be necessary for the purpose of—
    - (i) extinguishing the fire; or
    - (ii) protecting life or property;
  - (b) if the employee reasonably believes that a road traffic accident has occurred, do anything the employee reasonably believes to be necessary for the purpose of—
    - (i) rescuing people; or
    - (ii) protecting them from serious harm;
  - (c) if the employee reasonably believes that an emergency other than a fire or road traffic accident has occurred, do anything the employee reasonably believes to be necessary for the purpose of carrying out any function conferred on the authority in relation to the emergency; and
  - (d) do anything the employee reasonably believes to be necessary for the purpose of preventing or limiting damage to property resulting from action taken as mentioned in paragraph (a), (b) or (c).
- (2) An authorised employee may in particular under subsection (1)—
- (a) enter premises or a place (by force if necessary);
  - (b) move a vehicle without the consent of its owner;
  - (c) force open and enter a lockfast vehicle;
  - (d) close a road;
  - (e) stop and regulate traffic;
  - (f) restrict the access of persons to premises or a place.

#### **26 Powers of constables in relation to fires**

- (1) A constable may—
- (a) if the constable reasonably believes that a fire has broken out, do anything the constable reasonably believes to be necessary for the purpose of—
    - (i) extinguishing the fire; or
    - (ii) protecting life or property; and
  - (b) do anything the constable reasonably believes to be necessary for the purpose of preventing or limiting damage to property resulting from anything done as mentioned in paragraph (a).

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- (2) A constable may in particular under subsection (1)—
  - (a) enter (by force if necessary) premises or a place;
  - (b) move a vehicle without the consent of its owner;
  - (c) force open and enter a lockfast vehicle;
  - (d) restrict the access of persons to premises or a place.

### *Obtaining information*

## **27 Powers of authorised employees in relation to obtaining information**

- (1) Subject to subsection (2) an employee of a relevant authority who is authorised in writing by the authority for the purposes of this section (an “authorised employee”) may at any reasonable time enter premises for the purpose of obtaining information needed for the carrying out of the authority's functions under section 9, 10 or 11.
- (2) An authorised employee may not under subsection (1)—
  - (a) enter premises by force; or
  - (b) demand admission to premises occupied as a private dwelling unless 24 hours' notice in writing has first been given to the occupier of the dwelling.
- (3) If, on the application of an authorised employee, a sheriff or justice of the peace is satisfied—
  - (a) that—
    - (i) it is necessary for the employee to enter premises for the purposes of subsection (1); and
    - (ii) the employee is unable to do so, or is likely to be unable to do so, otherwise than by force,the sheriff or justice may issue a warrant authorising the employee to enter the premises by force at any reasonable time; or
  - (b) that it is necessary for the employee to enter premises for the purposes of subsection (1) without giving notice as required by subsection (2)(b), the sheriff or justice may issue a warrant authorising the employee to enter the premises at any time (by force if necessary).
- (4) If an authorised employee exercises a power of entry by virtue of this section, the employee may—
  - (a) take onto the premises—
    - (i) such other persons; and
    - (ii) such equipment,as the employee considers necessary; and
  - (b) require any person present on the premises to provide the employee with any—
    - (i) facilities, information, documents or records; or
    - (ii) other assistance,that the employee may reasonably request.
- (5) An authorised employee exercising a power of entry by virtue of this section shall, if so required, produce the items mentioned in subsection (6)—
  - (a) before entering the premises; or

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(b) at any time before leaving the premises.

(6) Those items are—

- (a) evidence of the employee's authorisation for the purpose of this section; and
- (b) any warrant under subsection (3)(a) or (b).

## **28 Giving of notices required by section 27**

(1) The notice required by section 27(2)(b) may be given—

- (a) by delivering it to the occupier of the dwelling;
- (b) by leaving it for that person at the dwelling; or
- (c) by sending it by post to that person at the dwelling.

(2) If the name or address of the person to whom notice under section 27(2)(b) is required to be given cannot be ascertained after reasonable inquiry, the notice may be given—

- (a) by leaving it in the hands of a person who is, or appears to be, resident in the dwelling; or
- (b) by leaving it fixed to a conspicuous part of the dwelling.

## **29 Powers of authorised employees in relation to investigating fires**

(1) An employee of a relevant authority who is authorised in writing by the authority for the purposes of this section (an “authorised employee”) may, at any reasonable time (by force if necessary), enter premises in which there has been a fire for the purpose of investigating—

- (a) what caused the fire; or
- (b) why it progressed as it did.

(2) If an authorised employee exercises the power mentioned in subsection (1) the employee may—

- (a) take onto the premises—
  - (i) such other persons; and
  - (ii) such equipment,
 as the employee considers necessary;
- (b) inspect and copy any documents or records on the premises or remove them from the premises;
- (c) carry out any inspections, measurements and tests in relation to—
  - (i) the premises; or
  - (ii) an article or substance found on the premises,
 that the employee considers necessary;
- (d) take samples of an article or substance found on the premises (but not so as to destroy it or damage it unless it is necessary to do so for the purpose of the investigation);
- (e) dismantle an article found on the premises (but not so as to destroy it or damage it unless it is necessary to do so for the purpose of the investigation);
- (f) take possession of an article or substance found on the premises and retain it for as long as is necessary for the purpose of—
  - (i) examining it and doing anything the employee has power to do under paragraph (c) or (e);

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- (ii) ensuring that it is not tampered with before the employee's examination of it is completed; or
    - (iii) ensuring that it is available for use as evidence in proceedings for an offence relevant to the investigation;
  - (g) require a person present on the premises to provide the employee with any—
    - (i) facilities, information, documents or records; or
    - (ii) other assistance,that the employee may reasonably request.
- (3) An authorised employee exercising the power mentioned in subsection (1) shall, if so required, produce evidence of the employee's authorisation for the purpose of this section—
  - (a) before entering the premises; or
  - (b) at any time before leaving the premises.
- (4) If an authorised employee exercises the power in subsection (2)(d) the employee shall—
  - (a) leave a notice at the premises with a responsible person (or, if that is impracticable, fixed in a prominent position) giving particulars of the article or substance and stating that the employee has taken a sample of it; and
  - (b) if it is practicable to do so, give such a person at the premises a portion of the sample marked in a manner sufficient to identify it.
- (5) If an authorised employee exercises the power in subsection (2)(f) the employee shall leave a notice at the premises (either with a responsible person or if that is impracticable fixed in a prominent position) giving particulars of the article or substance and stating that the employee has taken possession of it.
- (6) This section shall apply in relation to vehicles as it applies in relation to premises; but subject to the following modifications—
  - (a) the power conferred by subsection (1) includes power to enter premises in which a vehicle in which there has been a fire is being kept;
  - (b) the power conferred by paragraph (a) of subsection (2) includes power to take persons and equipment to the place where a vehicle is; and
  - (c) references to premises in subsections (2)(g) and (3) to (5) include references to premises in which vehicles are kept.
- (7) In this section “premises” includes land.

### **30 Exercise of powers under sections 27 and 29: securing of premises**

An employee of a relevant authority who, by virtue of section 27 or 29, enters premises—

- (a) which are unoccupied; or
- (b) from which the occupier is temporarily absent,

and who is authorised to do so by virtue of those sections shall on departure leave the premises as effectively secured against unauthorised entry as the employee found them.

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### **31 Sections 27 and 29: offences**

- (1) If, without reasonable excuse, a person fails to comply with any requirement under section 27(4)(b) or 29(2)(g), the person shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### *Use of information*

### **32 Use of commercially sensitive information**

- (1) If, without reasonable excuse, a person—
  - (a) makes use of; or
  - (b) discloses,
any commercially sensitive information obtained by the person while on premises entered in exercise of a power conferred by virtue of section 25, 26, 27 or 29, the person shall be guilty of an offence.
- (2) In subsection (1) “commercially sensitive information” means information with regard to any—
  - (a) manufacturing process; or
  - (b) trade secret.
- (3) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding 3 months.

VALID FROM 02/08/2005

## **CHAPTER 6**

### MUTUAL ASSISTANCE ETC.

#### *Assistance in discharge of functions*

### **33 Reinforcement schemes**

- (1) Each relevant authority shall, so far as practicable, enter into a reinforcement scheme with other relevant authorities.
- (2) A reinforcement scheme is a scheme for securing mutual assistance as between the relevant authorities participating in it for the purpose of carrying out the functions conferred by virtue of sections 9 to 11 on any of them.
- (3) A reinforcement scheme may make provision for apportioning between the participating authorities any expenses incurred in taking measures to secure the efficient operation of the scheme.
- (4) The participating authorities shall notify the Scottish Ministers of—

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- (a) the making of the scheme;
- (b) any variation of the scheme; and
- (c) the revocation of the scheme.

(5) The participating authorities shall give effect to the scheme.

### **34 Directions about reinforcement schemes**

(1) Where subsection (2) applies, the Scottish Ministers may direct two or more relevant authorities to make a reinforcement scheme in the terms specified in the direction.

(2) This subsection applies where—

- (a) one of the authorities has asked the other (or others) to agree to the making of the scheme;
- (b) the authorities are unable to agree as to—
  - (i) that matter; or
  - (ii) the terms proposed for the scheme; and
- (c) one of them asks the Scottish Ministers to make such a direction.

(3) Where subsection (4) applies, the Scottish Ministers may direct the relevant authorities participating in a reinforcement scheme to vary the scheme in the terms specified in the direction.

(4) This subsection applies where—

- (a) one of the authorities has asked the other (or others) to agree to the variation of the scheme;
- (b) the authorities are unable to agree as to that matter; and
- (c) one of them asks the Scottish Ministers to make such a direction.

(5) Where subsection (6) applies, the Scottish Ministers may direct the relevant authorities participating in a reinforcement scheme to revoke the scheme.

(6) This subsection applies where—

- (a) one of the authorities has asked the other (or others) to agree to the revocation of the scheme;
- (b) the authorities are unable to agree as to that matter; and
- (c) one of them asks the Scottish Ministers to make such a direction.

(7) Before giving a direction under this section, the Scottish Ministers—

- (a) shall give the authorities concerned an opportunity to make representations; and
- (b) may cause an inquiry to be held.

(8) A direction given under this section may be varied or revoked by a further such direction.

(9) In this section “reinforcement scheme” has the meaning given by section 33(2).

### **35 Assistance other than from relevant authorities**

(1) A relevant authority may enter into arrangements with a relevant person for securing the provision by that person of assistance for the purpose of the carrying out by the authority of a function conferred on it by virtue of any of sections 8 to 11, 13 and 61.

*Status: Point in time view as at 06/04/2005. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

- (2) In subsection (1) “relevant person” means a person who—
- (a) is not a relevant authority; and
  - (b) in the case of arrangements for the securing of assistance for the purpose of extinguishing fires—
    - (i) employs fire-fighters; or
    - (ii) is approved for that purpose by the Chief Officer of a relevant authority.
- (3) Arrangements under this section may include provision as to the terms (including terms as to payment) on which assistance is to be provided.

*Performance of functions by others*

**36 Arrangements for carrying out of functions by others**

- (1) A relevant authority may enter into arrangements with a relevant person for the carrying out by that person of a function conferred on the authority by virtue of any of sections 8 to 11, 13 and 61.
- (2) In subsection (1) “relevant person” means—
- (a) in the case of arrangements in relation to the authority's function of extinguishing fires—
    - (i) another relevant authority; or
    - (ii) any other person who employs fire-fighters;
  - (b) in any other case—
    - (i) another relevant authority; or
    - (ii) any other person.
- (3) Arrangements under this section may include provision as to the terms (including terms as to payment) on which any function is to be carried out.

**37 Section 36: directions**

- (1) The Scottish Ministers may—
- (a) direct two relevant authorities to enter into arrangements under section 36; or
  - (b) direct two relevant authorities who have entered into such arrangements—
    - (i) to vary the arrangements in the terms specified in the direction; or
    - (ii) to terminate the arrangements.
- (2) Before giving a direction under this section, the Scottish Ministers—
- (a) shall give the authorities concerned an opportunity to make representations; and
  - (b) may cause an inquiry to be held.
- (3) The Scottish Ministers may give a direction under this section only where, after considering—
- (a) any representations made under subsection (2)(a); and
  - (b) the report of any person by whom any inquiry under subsection (2)(b) is held,
- they consider it expedient to do so with a view to securing greater economy, efficiency and effectiveness.



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- (4) A direction given under this section may be varied or revoked by a further such direction.

VALID FROM 02/08/2005

## CHAPTER 7

### ASSAULTING OR IMPEDING EMPLOYEES AND OTHERS

#### **38 Amendment of Emergency Workers (Scotland) Act 2005**

(1) The Emergency Workers (Scotland) Act 2005 (asp 2) shall be amended as follows.

(2) For paragraph (b) of section 1(3) substitute—

“(zb) that of a person employed by a relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5)) while discharging any of the authority's functions under any of sections 9 to 13 (fire-fighting, road traffic accidents, other emergencies, emergency directions and other eventualities), 25, 27 and 29 (powers of authorised employees in relation to emergencies, obtaining information and investigating fires) of that Act;

(b) that of a person providing assistance under arrangements made by virtue of section 35 (assistance other than from relevant authorities) or 36 (arrangements for carrying out of functions by others) of the Fire (Scotland) Act 2005 other than assistance given to a relevant authority (as defined in section 6 of that Act) for the purpose of carrying out any of the authority's functions conferred on the authority by section 8 or 61 of that Act;”.

#### **39 Assaulting or impeding employees discharging certain functions**

(1) A person who assaults, obstructs or hinders another person who is—

(a) an employee of a relevant authority; and

(b) discharging any of the functions conferred on the authority under section 8, 17 or 61,

commits an offence.

(2) A person who assaults, obstructs or hinders another person who is providing assistance to a relevant authority under arrangements made by virtue of section 35 for the purpose of the carrying out by that authority of any of the functions conferred on it by virtue of section 8 or 61 commits an offence.

(3) A person who assaults, obstructs or hinders another person who is by virtue of section 36 carrying out a function conferred on a relevant authority by virtue of section 8 or 61 commits an offence.

(4) A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a period not exceeding 9 months or to a fine not exceeding level 4 on the standard scale.

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*Changes to legislation: There are currently no known outstanding effects  
for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

## CHAPTER 8

### CENTRAL SUPERVISION AND SUPPORT

#### *Fire and Rescue Framework for Scotland*

#### **40 Framework document**

- (1) The Scottish Ministers shall prepare a document—
  - (a) setting out priorities and objectives for relevant authorities in connection with the carrying out of their functions; and
  - (b) containing—
    - (i) such guidance in connection with the carrying out of any of those functions; and
    - (ii) such other matters relating to those authorities or those functions, as the Scottish Ministers consider appropriate.
- (2) The Scottish Ministers—
  - (a) shall keep the document prepared under subsection (1) under review; and
  - (b) may from time to time revise it.
- (3) The Scottish Ministers shall carry out the functions conferred on them by subsection (1) and (2) in the manner and to the extent that appears to them to be best calculated to promote—
  - (a) public safety;
  - (b) the efficiency and effectiveness of fire and rescue authorities; and
  - (c) efficiency and effectiveness in connection with the matters in relation to which relevant authorities have functions.
- (4) The document prepared under subsection (1), and any revision of it which appears to the Scottish Ministers to be significant, shall have effect only when brought into effect by the Scottish Ministers by order.
- (5) In preparing—
  - (a) the document mentioned in subsection (1); and
  - (b) any revision of it which appears to them to be significant,
the Scottish Ministers shall consult the persons mentioned in subsection (6).
- (6) Those persons are—
  - (a) each relevant authority or such persons as the Scottish Ministers consider represent those authorities; and
  - (b) such persons as the Scottish Ministers consider represent employees of those authorities.

#### **Commencement Information**

- I3** S. 40 wholly in force at 2.8.2005; s. 40 not in force at Royal Assent see s. 90; s. 40 in force for certain purposes at 6.4.2005 by [S.S.I. 2005/207](#), [art. 3](#); s. 40 in force at 2.8.2005 in so far as not already in force by [S.S.I. 2005/392](#), [art. 2\(f\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Fire (Scotland) Act 2005, Part 2. (See end of Document for details)*

VALID FROM 02/08/2005

#### **41 Adherence**

- (1) In carrying out their functions, relevant authorities shall have regard to the document prepared under section 40(1).
- (2) Subsections (3) and (4) apply where the Scottish Ministers consider that a relevant authority is failing, or is likely to fail, to act in accordance with the document prepared under section 40(1).
- (3) The Scottish Ministers may cause an inquiry to be held into the matter.
- (4) Subject to subsection (5), the Scottish Ministers may, for the purpose of securing that the authority acts in accordance with the document, by order require the authority—
  - (a) to take; or
  - (b) to refrain from taking,such action as is specified in the order.
- (5) The Scottish Ministers may make an order under subsection (4) only where they consider that it would promote—
  - (a) public safety;
  - (b) the efficiency and effectiveness of the authority; or
  - (c) efficiency and effectiveness in connection with the matters in relation to which relevant authorities have functions.
- (6) Before making an order under subsection (4), the Scottish Ministers shall consult the authority in respect of which it is proposed to be made.
- (7) Where the document prepared under subsection (1) of section 40 has been revised under subsection (2)(b) of that section, the references in this section and section 42 to that document shall be taken to refer to that document as revised.

VALID FROM 02/08/2005

#### **42 Reporting**

- (1) The Scottish Ministers shall report to the Scottish Parliament on—
  - (a) the extent to which relevant authorities are acting in accordance with the document prepared under section 40(1); and
  - (b) any steps taken by them for the purpose of securing that relevant authorities so act.
- (2) The first report under subsection (1) shall be made before the expiry of the period of two years starting on the date when the document prepared under section 40(1) is brought into effect.
- (3) Every subsequent such report shall be made before the expiry of the period of two years starting on the date on which the last such report was made.

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VALID FROM 02/08/2005

### *Inspection*

#### **43 Inspectors of Fire and Rescue Authorities**

- (1) Her Majesty may by Order in Council appoint—
  - (a) a Chief Inspector of Fire and Rescue Authorities; and
  - (b) such number of Inspectors of Fire and Rescue Authorities as the Scottish Ministers may determine.
- (2) The Scottish Ministers may appoint Assistant Inspectors of Fire and Rescue Authorities.
- (3) The Scottish Ministers shall pay to the persons appointed under this section such remuneration as the Scottish Ministers may determine.
- (4) A person who, immediately before the coming into force of this section, is by virtue of appointment under section 24 of the Fire Services Act 1947 (c. 41)—
  - (a) the Chief Inspector of Fire Services for Scotland, shall be taken to have been appointed under subsection (1)(a);
  - (b) an Inspector of Fire Services for Scotland, shall be taken to have been appointed under subsection (1)(b);
  - (c) an Assistant Inspector of Fire Services for Scotland, shall be taken to have been appointed under subsection (2).

#### **44 Functions of Inspectors of Fire and Rescue Authorities**

- (1) The Scottish Ministers may direct a person appointed under section 43 to—
  - (a) inquire into a matter mentioned in subsection (2); and
  - (b) to submit to them a written report on that matter by a date specified by them.
- (2) Those matters are—
  - (a) the state and efficiency of relevant authorities generally;
  - (b) the manner in which—
    - (i) a relevant authority is carrying out any of its functions under this Act; or
    - (ii) relevant authorities are carrying out such functions generally;
  - (c) technical matters relating to a function of a relevant authority under this Act.
- (3) The Scottish Ministers shall lay a copy of each report submitted to them under subsection (1)(b) on the matter mentioned in subsection (2)(a) before the Scottish Parliament.

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VALID FROM 02/08/2005

### *Equipment, facilities and services*

#### **45 Directions for public safety purposes**

- (1) Where the Scottish Ministers consider it necessary to do so for public safety purposes, they may make an order (a “property and facilities order”) giving general or specific directions to a relevant authority (or two or more such authorities) about the use or disposal of property or facilities.
- (2) A direction under subsection (1) given to an authority may in particular include provision—
  - (a) about the use or disposal by the authority of property or facilities belonging to it or under its control;
  - (b) about the use by the authority of property or facilities belonging to or under the control of—
    - (i) another relevant authority; or
    - (ii) a person who has made, or is willing to make, the property or facilities available;
  - (c) requiring payments to be made by the authority to—
    - (i) another relevant authority; or
    - (ii) any other person,in respect of the use of property or facilities.
- (3) In subsection (2)(b) a reference to property or facilities belonging to a person includes a reference to land occupied by the person.

#### **46 Requirements concerning equipment and services**

The Scottish Ministers may make an order requiring a relevant authority (or two or more such authorities)—

- (a) to use and maintain equipment—
  - (i) specified in the order; or
  - (ii) of a description so specified; or
- (b) to use services—
  - (i) so specified; or
  - (ii) of a description so specified.

#### **47 Provision of equipment etc.**

- (1) The Scottish Ministers may—
  - (a) provide and maintain any equipment, facilities and services;
  - (b) contribute to the provision and maintenance of any equipment, facilities and services;
  - (c) establish and maintain any organisations; or
  - (d) contribute to the establishment and maintenance of any organisations,

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they consider appropriate for promoting the economy, efficiency and effectiveness of relevant authorities.

- (2) Subject to subsection (3), charges may be imposed for the use of equipment, facilities and services—
  - (a) provided by the Scottish Ministers under subsection (1)(a); or
  - (b) provided by an organisation established or maintained by the Scottish Ministers under subsection (1)(c).
- (3) Any such charge shall not exceed the costs reasonably incurred in providing the equipment, facility or service to which it relates.

VALID FROM 02/08/2005

### *Training*

#### **48 Central institution and other centres for education and training**

- (1) The Scottish Ministers may establish and maintain a central training institution for one or more of the purposes mentioned in subsection (2).
- (2) Those purposes are—
  - (a) the provision of education and training to employees of relevant authorities;
  - (b) the provision of advice and assistance to relevant authorities in connection with the provision of such education and training;
  - (c) the supervision and regulation of the provision of such education and training;
  - (d) the provision of education and training to persons who provide (or are to provide) such education and training;
  - (e) the provision of education or training to persons who are not employees of relevant authorities in matters in relation to which relevant authorities have functions;
  - (f) the provision of advice and assistance in connection with the provision of such education and training.
- (3) The Scottish Ministers may make arrangements with a relevant authority for a centre established under section 15 to be used for one or more of the purposes mentioned in subsection (2).

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VALID FROM 02/08/2005

## CHAPTER 9

### EMPLOYMENT

#### *Negotiation of conditions of service*

#### **49 Statutory negotiation arrangements**

- (1) The Scottish Ministers may by order make provision for the establishment of a body of persons (a “statutory negotiation body”), or two or more such bodies, for the purpose of negotiating the conditions of service of employees of relevant authorities.
- (2) An order under subsection (1) shall provide for the statutory negotiation body established by it to be composed of—
  - (a) persons representing the interests of some or all relevant authorities;
  - (b) persons representing the interests of some or all employees of relevant authorities; and
  - (c) a person who does not fall within subsection (3), who shall chair the body.
- (3) A person falls within this subsection if the person is—
  - (a) a member or employee of a relevant authority;
  - (b) a member or employee of a body representing the interests of some or all employees of relevant authorities; or
  - (c) an office-holder in, or a member of the staff of, the Scottish Administration.
- (4) The reference in subsection (2)(b) to persons representing the interests of some or all employees of relevant authorities includes trade unions (as defined in section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) whose membership consists of or includes employees of relevant authorities.
- (5) A statutory negotiation body may make arrangements for the purpose of enabling conditions of service of employees of relevant authorities to be negotiated at local level (“local negotiation arrangements”).
- (6) Local negotiation arrangements may in particular include provision as to—
  - (a) the—
    - (i) persons; or
    - (ii) descriptions of person,  
by whom, or by means of whom, negotiations are authorised to be carried out at local level;
  - (b) the conditions of service and descriptions of conditions of service authorised to be negotiated at local level.
- (7) Local negotiation arrangements may be made by a statutory negotiation body in respect of employees of a particular description only if the statutory negotiation body includes persons representing the interests of employees of that description.

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- (8) Where there is a statutory negotiation body which includes persons representing the interests of employees of a particular description, an agreement as to the conditions of service of employees of that description which is made by or on behalf of a relevant authority and by or on behalf of employees of the description concerned is a legally enforceable contract only where the terms of the agreement were negotiated—
- (a) by means of the statutory negotiation body; or
  - (b) in accordance with local negotiation arrangements made by the statutory negotiation body in respect of employees of that description.

## **50 Guidance**

- (1) A relevant negotiation body shall, in negotiating the conditions of service of employees of relevant authorities, have regard to any guidance given by the Scottish Ministers in connection with that matter.
- (2) In subsection (1) “relevant negotiation body” means—
- (a) a body established by virtue of section 49(1); or
  - (b) any other body of persons which—
    - (i) includes both persons representing the interests of some or all relevant authorities and persons representing the interests of some or all employees of relevant authorities; and
    - (ii) is constituted in accordance with what appear to the Scottish Ministers to be appropriate arrangements for the negotiation of the conditions of service of employees of relevant authorities.
- (3) The reference in subsection (2)(b)(i) to persons representing the interests of some or all employees of relevant authorities includes trade unions (as defined in section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) whose membership consists of or includes employees of relevant authorities.

### *Supplementary*

## **51 Prohibition on employment of police**

A relevant authority may not employ a constable for the purpose of carrying out any of the functions conferred on the authority by virtue of this Act.

VALID FROM 02/08/2005

## **CHAPTER 10**

### INTERPRETATION

## **52 Interpretation of Part 2**

In this Part, unless the context otherwise requires—

“emergency” means an event or situation that causes or is likely to cause—

- (a) a person to die;



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- (b) a person to suffer serious—
    - (i) injury; or
    - (ii) illness; or
  - (c) serious harm to the environment (including the life and health of plants and animals and the fabric of buildings);
- “extinguishing”, in relation to a fire, includes containing and controlling;
- “road” has the same meaning as in Part 4 of the New Roads and Street Works Act 1991 (c. 22).

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