



Police and Fire Reform (Scotland) Act 2012

2012 asp 8

PART 2

FIRE REFORM

The Scottish Fire and Rescue Service

101 The Scottish Fire and Rescue Service

(1) After section 1 of the 2005 Act, insert—

“1A The Scottish Fire and Rescue Service

- (1) There is established a body corporate to be known as the Scottish Fire and Rescue Service, in Gaelic, Seirbheis Smàlaidh agus Teasairginn na h-Alba (referred to in this Act as “SFRS”).
- (2) SFRS has the functions conferred on it by or under this Act or any other enactment.
- (3) Schedule 1A makes further provision about SFRS.”.

(2) After schedule 1 to the 2005 Act, insert—

“SCHEDULE 1A

(introduced by section 1A(3))

THE SCOTTISH FIRE AND RESCUE SERVICE

Status

- 1 (1) SFRS—
 - (a) is not a servant or agent of the Crown, and

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- (b) has no status, immunity or privilege of the Crown.
- (2) SFRS's property is not property of, or property held on behalf of, the Crown.

Membership

- 2 (1) SFRS is to consist of—
 - (a) a member appointed by the Scottish Ministers to chair SFRS (“the chairing member”), and
 - (b) not fewer than 10 nor more than 14 other members appointed by the Scottish Ministers.
- (2) The Scottish Ministers may appoint as members only persons who they consider to have skills and expertise relevant to the functions of SFRS.
- (3) The Scottish Ministers may by order modify sub-paragraph (1)(b) by substituting for the minimum or maximum number of members for the time being specified such other number as they think fit.
- (4) Members of SFRS may elect from their number a member to act as deputy to the chairing member.

Disqualification

- 3 (1) A person is disqualified from appointment, and from holding office, as a member of SFRS if that person is or becomes—
 - (a) a member of staff of SFRS,
 - (b) a member of
 - (i) the Scottish Parliament,
 - (ii) the House of Lords,
 - (iii) the House of Commons, or
 - (iv) the European Parliament,
 - (c) disqualified from standing for election as a member of
 - (i) the Scottish Parliament,
 - (ii) the House of Commons, or
 - (iii) a local authority.
- (2) The Scottish Ministers may by order modify sub-paragraph (1).

Tenure

- 4 (1) A member is to be appointed for a period not exceeding 4 years specified in the appointment.
- (2) A member holds and vacates office on such terms and conditions as the Scottish Ministers may determine.
- (3) On ceasing to be a member, a person is eligible for reappointment.
- (4) A member may, by notice in writing to the Scottish Ministers, resign office as a member.

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Removal from office

- 5 (1) The Scottish Ministers may remove a member from office if—
- (a) the member is an undischarged bankrupt,
 - (b) the member has, without reasonable excuse, been absent from meetings of SFRS for a period longer than 4 consecutive months,
 - (c) the member has, without reasonable excuse, been absent from 3 consecutive meetings of SFRS,
 - (d) the member has been convicted (whether before or after the member's appointment) of a criminal offence,
 - (e) the member has failed to comply with the terms or conditions of the member's appointment,
 - (f) the Scottish Ministers consider that the member is otherwise unfit to be a member or is unable for any reason to carry out the member's functions.
- (2) For the purposes of sub-paragraph (1)(a), “undischarged bankrupt” means a person—
- (a) whose estate has been sequestrated and who has not been discharged (or against whom a bankruptcy order has been made and is still in force),
 - (b) who has granted a trust deed for, or made a composition or arrangement with, creditors (and has not been discharged in respect of it),
 - (c) who is the subject of a bankruptcy restrictions order, or an interim bankruptcy restrictions order, made under the Bankruptcy (Scotland) Act 1985 (c.66) or the Insolvency Act 1986 (c.45),
 - (d) who is the subject of a bankruptcy restrictions undertaking entered into under either of those Acts,
 - (e) who has been adjudged bankrupt (and has not been discharged), or
 - (f) who is subject to any other kind of order, arrangement or undertaking analogous to those mentioned in paragraphs (a) to (d), anywhere in the world.

Remuneration, allowances and expenses of members

- 6 SFRS may pay to its members such remuneration, allowances and expenses as the Scottish Ministers may determine.

The Chief Officer

- 7 (1) SFRS must employ a Chief Officer.
- (2) The Chief Officer may not be a member of SFRS.
 - (3) The first Chief Officer is to be appointed by the Scottish Ministers on such terms and conditions as they may determine.
 - (4) Each subsequent appointment of a person as the Chief Officer is to be made by SFRS.

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- (5) The appointment of a person under sub-paragraph (4) is subject to the approval of the Scottish Ministers.
- (6) The terms and conditions of a person appointed under sub-paragraph (4) are to be determined by SFRS.

SFRS's employees

- 8 (1) SFRS may employ staff.
- (2) Staff are to be employed on terms and conditions determined by SFRS.
- (3) SFRS may pay or make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who is, or has ceased to be, a member of staff (including the Chief Officer).
- (4) The reference in sub-paragraph (3) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of employment.
- (5) The arrangements mentioned in sub-paragraph (3) may include—
 - (a) the making of contributions or payments towards provision for pensions, allowances or gratuities mentioned there, and
 - (b) the establishment and administration of pension schemes.

Committees and sub-committees

- 9 (1) SFRS may establish committees for any purpose.
- (2) Any committee so established may establish sub-committees.
- (3) The members of any committee or sub-committee may include persons who are not members of SFRS but such persons are not entitled to vote at meetings.
- (4) A committee or sub-committee must not consist entirely of persons who are not members of SFRS.
- (5) SFRS may pay such remuneration, allowances and expenses as are determined by SFRS to a member of a committee or sub-committee who is not—
 - (a) a member of SFRS, or
 - (b) a member of staff of SFRS.

Procedure

- 10 (1) SFRS may regulate—
 - (a) its own procedure (including quorum), and
 - (b) the procedure (including quorum) of its committees and sub-committees.
- (2) The validity of any proceedings or acts of SFRS is not affected by any—
 - (a) vacancy in its membership,
 - (b) defect in the appointment of a member,
 - (c) disqualification of a person as a member after appointment.

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Public access

- 11 (1) SFRS must ensure that its proceedings and those of its committees and sub-committees are held in public.
- (2) Despite sub-paragraph (1), SFRS or, as the case may be, any of its committees or sub-committees may decide to hold all or part of any proceedings in private.
- (3) SFRS must publish—
 - (a) agendas for its proceedings and those of its committees and sub-committees,
 - (b) the papers relating to those proceedings,
 - (c) such reports of those proceedings as it thinks fit.
- (4) Despite sub-paragraph (3), SFRS may decide that all or part of any agenda, paper or report need not be published.
- (5) SFRS must publish a statement setting out—
 - (a) the circumstances in which its proceedings and those of its committees and sub-committees may be held in private, and
 - (b) the circumstances in which agendas, papers and reports need not be published.

Governance and accountability

- 12 SFRS must try to ensure that each of its members, when acting in the capacity of member—
 - (a) acts consistently with any principle of good governance which appears to SFRS to constitute best practice, and
 - (b) acts in a way which is as accountable and transparent as is reasonably practicable.

SFRS's general powers

- 13 (1) SFRS may do anything that it considers appropriate for the purposes of, or in connection with, the carrying out of its functions.
- (2) SFRS may in particular—
 - (a) enter into contracts,
 - (b) borrow money,
 - (c) acquire and dispose of land and other property,
 - (d) with the authorisation of the Scottish Ministers, purchase compulsorily land,
 - (e) form or promote (whether alone or with another) companies under the Companies Act 2006 (c.46).
- (3) SFRS may not exercise the power in sub-paragraph (2)(b) or (e) without the consent of the Scottish Ministers.
- (4) For the purposes of sub-paragraph (3) consent may be given—
 - (a) with respect to a particular case or class of case,

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- (b) subject to such conditions as the Scottish Ministers consider appropriate.
- (5) The power in sub-paragraph (2)(c) includes the power to accept, on such conditions as SFRS considers appropriate—
 - (a) gifts of money, and
 - (b) gifts or loans of other property.
- (6) The powers in sub-paragraph (2)(c) and (d) to acquire and purchase land include power to acquire a servitude or other right in or over land by the creation of a new right.
- (7) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c.42) applies in relation to the compulsory purchase of land under sub-paragraph (2)(d) as if—
 - (a) that sub-paragraph were contained in an Act in force immediately before the commencement of that Act, and
 - (b) SFRS were a local authority.

Delegation of functions

- 14 (1) SFRS may delegate any of its functions to a person mentioned in sub-paragraph (2).
- (2) Those persons are—
 - (a) the Chief Officer,
 - (b) any other member of staff of SFRS,
 - (c) any of its committees.
- (3) Sub-paragraph (1) does not affect—
 - (a) SFRS's responsibility for the carrying out of the delegated functions, or
 - (b) SFRS's ability to carry out the delegated functions.

Location of principal office premises

- 15 Any determination by SFRS as to the location of the principal office premises of its members or its Chief Officer is subject to the approval of the Scottish Ministers.

Grants

- 16 (1) The Scottish Ministers may make grants to SFRS of such amounts as they may determine.
- (2) A grant is made subject to any conditions specified by the Scottish Ministers (including conditions about repayment).

Accounts

- 17 (1) SFRS must—
 - (a) keep proper accounts and accounting records, and
 - (b) prepare for each financial year a statement of accounts.

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- (2) Each statement of accounts must comply with any directions given by the Scottish Ministers as to—
 - (a) the information to be contained in it,
 - (b) the manner in which the information is to be presented,
 - (c) the methods and principles according to which the statement is to be prepared.
- (3) SFRS must send each statement of accounts to the Auditor General for Scotland for auditing.
- (4) In this paragraph, “financial year” means—
 - (a) the period beginning on the day on which SFRS is established and ending on 31 March next occurring, and
 - (b) each subsequent period of a year ending on 31 March.”

Commencement Information

- I1** S. 101 partly in force; s. 101(1) in force for specified purposes and s. 101(2) wholly in force at 8.8.2012 see s. 129(1)(b)
- I2** S. 101(1) in force at 1.4.2013 by S.S.I. 2013/51, art. 2

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Ch. 12A inserted by [2017 asp 4 s. 1\(1\)](#)
- s. 17(2)(h) inserted by [2017 asp 4 s. 2\(a\)\(ii\)](#)
- s. 17(4)(b)(iv) inserted by [2017 asp 4 s. 2\(b\)\(ii\)](#)
- s. 20A inserted by [2017 asp 4 s. 3](#)